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SUMMARY AND ANALYSIS OF THE LEGISLATIVE HISTORY OF THE APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965 AND SUBSEQUENT AMENDMENTS

A REPORT

PREPARED BY

THE AMERICAN LAW DIVISION

OF THE

CONGRESSIONAL RESEARCH SERVICE

OF THE

LIBRARY OF CONGRESS

FOR THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

U.S. SENATE

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November 30, 1984

TO : Senate Committee on Environment and Public Works
Attn: John Yago and Bailey Guard

FROM : American Law Division

SUBJECT : Summary and Analysis of the Legislative History of the Appalachian Regional Development Act of 1965 and Subsequent Amendments

You have requested the American Law Division to prepare the attached summary and analysis of the legislative history of the Appalachian Regional Development Act of 1965 [1/] (cited to afterwards as the "ARDA") and its subsequent amendments. The ARDA originated in the Senate Committee on Environment and Public Works (cited to afterwards as the "Committee"), and the Committee continues to have jurisdictional responsibility for oversight and reauthorization of the ARDA. [2/] We hope that this report will be helpful to the Committee as a useful reference tool.

Douglas Reid Weimer
Legislative Attorney

1/ Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5.

2/ Letter from Senator Jennings Randolph and Senator Robert T. Stafford to Gilbert Gude, Director, Congressional Research Service (November 2, 1983).

EXECUTIVE SUMMARY

This report summarizes and analyzes the legislative history surrounding the enactment of the Appalachian Regional Development Act */ (cited to afterwards as the "ARDA"). Conditions and legislative activity prior to the enactment of the ARDA are described. The legislative history of the enactment of the ARDA is summarized in Part I of the report. Individual legislative provisions are referred to in explaining the operating mechanism of the ARDA.

In the nearly twenty years of its existence, the ARDA has been amended many times. The nature and scope of these amendments have varied greatly, ranging from substantive amendments to basic funding measures. Despite the various amendments, the basic 1965 legislative framework of the ARDA has remained in existence. The amendments of the first decade of the ARDA were characterized by a number of technical amendments to modify the operation of certain Appalachian programs and by changes to take into account other legislation which had an impact on the Appalachian programs. Part II of the report examines the legislative history surrounding the enactment of the amendments from 1965-1975. Part III of the report reviews the second decade of the ARDA's existence, 1975-1984. Amendments to the ARDA during this period were generally funding measures which were sometimes part of massive appropriations legislation, and the legislative history dealing specifically with the ARDA was sometimes quite limited. The Appendix to this report contains the current statutory codification of the ARDA.

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*/ Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5.

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SUMMARY AND ANALYSIS OF THE LEGISLATIVE HISTORY OF THE APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965 AND SUBSEQUENT AMENDMENTS

Douglas Reid Weimer
Legislative Attorney
American Law Division
November 30, 1984

SUMMARY AND ANALYSIS OF THE LEGISLATIVE HISTORY OF THE APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965 AND SUBSEQUENT AMENDMENTS

INTRODUCTION

The Appalachian Regional Development Act of 1965 [1/] (cited to afterwards as the "ARDA") was an innovative and comprehensive piece of legislation aimed at improving many aspects of life in the Appalachian Region. This report traces the background of the ARDA and the legislative history of the enactment of the ARDA and its subsequent amendments. The amendments range from substantive legislative changes to routine funding measures.

PART I--BACKGROUND AND ENACTMENT OF THE ARDA

Background

Appalachia Prior to the ARDA

Throughout much of the twentieth century, events occurred which caused Americans to perceive that Appalachia was a separate region isolated from the rest of the country. It suffered from floods, was subject to erratic employment and economic swings in the coal industry, and was susceptible to more severe economic and population shifts than the rest of the nation. [2/] For years, political and religious leaders, universities, and other groups in the

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1/ Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5.

2/ A Report to Congress from the Appalachian Governors 9 (Dec. 31, 1981), (cited to afterwards as the "Governors' Report").

Appalachian region attempted to locate ways to constructively solve Appalachia's problems. Few permanent changes were accomplished, and Appalachia continued to lag economically far behind the rest of an increasingly prosperous nation. 3/

The Eastern Kentucky Regional Council was organized to deal with the aftermath of a major 1957 flood and concluded that the region's problems could not be resolved without interstate action. 4/ Neighboring states--Alabama, Georgia, Kentucky, Maryland, North Carolina, Tennessee, Virginia, and West Virginia--reached a consensus that the area's problems needed an interstate, rather than a state approach to economic improvement. 5/

By the early 1960's, conditions in Appalachia were severely depressed. During the 1960 West Virginia Presidential Primaries, national interest was focused on the plight of many West Virginia residents. National television coverage followed the candidates and highlighted the poverty stricken conditions of the region. Proposals to improve the area's conditions were submitted to the 1960 presidential candidates. However, no direct action was undertaken until March 1963, when a flood of record proportions struck central Appalachia and drew national attention to the region. 6/ In

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3/ Id.

4/ Sandra S. Osbourn, Multi-State Economic Development Commissions: History and Background 24 (CRS Report No. 79-121 GOV, May 21, 1979), (cited to afterwards as the "Osbourn Report").

5/ Id. These states, along with Mississippi, New York, Ohio, Pennsylvania, and South Carolina are currently members of the Appalachian Regional Commission.

6/ Id.

response to this disaster, President Kennedy met with various governors of the Appalachian states. This meeting ultimately led to the formation of the President's Appalachian Regional Commission. 7/

The President's Appalachian Regional Commission (afterwards cited to as the "PARC") had the purpose of preparing a comprehensive active program for the economic development of Appalachia. 8/ The PARC consisted of representatives of each Appalachian governor and a representative of the major federal agencies operating within the area. 9/ The PARC reached the conclusion that many problems were common to the entire region and that the region lagged substantially behind other geographic areas of the United States. The PARC discovered that many residents lived below the poverty level, that unemployement was higher than the national average in Appalachia, and that many persons had a limited education. In addition, the PARC found that the region had a shortage of doctors and that the region was dependent on employment in mining and agriculture--industries which had lost thousands of jobs. 10/ The PARC believed that the internal educational resources to combat the region's problems were inadequate, and there was an insufficient tax base to fund large scale public programs.

7/ Id.

8/ See, Governors' Report at 9.

9/ Id. See also, Osbourn Report at 24.

10/ Id., at 9-10.

In early 1964 the PARC concluded that a new regional program would require a new implementing organization. 11/ The PARC report and the later legislation which the Johnson Administration proposed emphasized the organization and the development of the implementing entity. 12/ Such an entity would need to be organized quickly, would combine federal and state participation, and would be independent of other agencies without encroaching upon them. The federal government would share with the states the administrative costs and the program and policy-making authority over the funds appropriated by Congress. 13/ Thus, policies, plans, and grant applications would be reviewed by the federal government and also by the states. The PARC urged the "federalist" or the "partnership" approach to implement its recommendations.

> The federalist or partnership proponents...while conceding that State and local governments were financially incapable of wholly effective contribution, argues that States could develop a capability for planning and for programming elements that would have the distinct advantage of reflecting unique local conditions and opportunities. PARC chose to emphasize the latter point of view in a way which gave the Appalachian Regional Commission its distinctive Federal-State partnership structure. 14/

The PARC took the novel approach of recommending the creation of new institutions at the local level, Local Development Districts (afterwards cited to as "LDDs"). The LDDs were conceived as multicounty planning and development units and were designed to link local areas and the Appalachian states. Previous experiences with working on the community level had illustrated various regional weaknesses such as lack of skilled personnel, limitations of development programs,

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11/ See, Osbourn Report at 25.

12/ Id.

13/ Id.

14/ U.S. Advisory Commission on Intergovernmental Relations. Multistate Regionalism (Report A-39) Washington, U.S. Govt. Print. Off. 19 (1972).

lack of area wide planning, and competition rather than cooperation from neighoring communities.[15/] The PARC proposed legislation to eliminate many of these previously experienced problems. To resolve these problems, the PARC concluded that to be effective, economic and community development had to be regionally oriented. Thus, the purpose of the LDDs was to carry out the functions of a regional entity.[16/]

The PARC presented its report to President Johnson on April 9, 1964. Legislative authority to implement the plan was requested from Congress on April 28, 1964. The PARC recommended a federally chartered, mixed-ownership corporation to provide access to the private money market. Although the Johnson Administration strongly espoused this proposal, Congress opposed this concept on the ground that funds should be provided through legislative appropriation channels subject to congressional oversight, as opposed to a semi-independent agency placed outside normal legislative review. The Administration was not successful in advancing the mixed-ownership scheme, and the development corporation concept was dropped.[17/]

Opposition to the proposal to form an entity to aid Appalachia arose from Representatives and Senators from areas outside of the region. Members from other areas opposed a plan to favor one geographic region over another. To ensure the passage of Appalachian legislation, the Johnson Administration assured the hesitant members that other geographic areas in economic distress would also receive federal assistance.[18/]

15/ Id., at 89-90.

16/ See, Osbourn Report at 26.

17/ Id.

18/ Id.

Senate Bill 2782--88th Congress

Legislators worked to secure the passage of the Appalachian legislation in the fall of 1964. Late in 1964, the Senate passed the Appalachian legislation, S. 2782 [19] by a 45-23 vote. The House Public Works Committee reported favorably on the measure. However, the bill did not reach the House floor in time for legislative action in 1964, and the legislation died with the adjournment of the 88th Congress. [20]

Senate Bill 3--89th Congress

S. 2782 was reintroduced in the 89th Congress as S. 3 on January 6, 1965. [21] The Senate Public Works Committee reported out the bill with some minor amendments on January 27, 1965. [22] On February 1, 1965, the Senate passed the legislation after Majority Leader Mike Mansfield was reassured that the Johnson Administration would assist other distressed areas and after the passage of an amendment to admit New York State to the Appalachian region. [23] The House Public Works Committee reported S. 3 on February 17, 1965, [24] and the House passed the bill without amendments on March 3. President Johnson signed the Appalachian Regional Development Act of 1965 into law on March 9. [25]

19/ S. 2782, 88th Cong., 2d Sess. (1964)

20/ See, Osbourn Report at 27.

21/ S. 3, 89th Cong., 1st Sess. (1965).

22/ S. Rep. No. 13, 89th Cong., 1st Sess. (1965).

23/ See, Osbourn Report at 28.

24/ H. Rep. No. 51, 89th Cong., 1st Sess. (1965).

25/ Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5.

LEGISLATIVE HISTORY OF THE ARDA

An extensive legislative history exists to trace the legislative path of the enactment of the ARDA through committee reports and through floor action.[26/] A general consensus existed in both Houses of Congress that such legislation to aid the Appalachian area was needed and long overdue.[27/] Both Senate and House Committees reviewed the activities of the PARC and considered alternatives for the implementation of an Appalachian program. Hearings were held to determine Appalachian needs.[28/]

Various subject areas directly concerned with Appalachia were considered by the House and Senate Committees: the administration and implementation of such a program, coordinating efforts with other federal programs, transportation, health care, land stabilization, timber resources, coal land reclamation, water resources, vocational education, sewage treatment, supplements to federal grants-in-aid, and supplements to existing federal programs.[29/] The legislators examined the existing conditions in Appalachia and attempted to fashion a legislative remedy to best serve the needs of the region.

Support for the legislation was widespread and crossed party lines. For example, two strong Senate proponents of the ARDA were Robert F. Kennedy, President

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26/ See, notes 22 and 24. See also, 111 Cong. Rec. 3,997, et seq. (Mar. 3, 1965), and 111 Cong. Rec. 1,671, et seq. (Feb. 1, 1965).

27/ Id.

28/ Appalachian Regional Development Act of 1965: Hearing on S. 3 Before the Senate Committee on Public Works, 89th Cong., 1st Sess. (1965). Discussed at, S. Rep. No. 13, 89th Cong. 1st Sess. 25-26 (1965).

29/ Id., at 6-21. See also, H.Rep. No. 51, 89th Cong. 1st Sess. 3, et seq. (1965).

Kennedy's brother, and Hugh Scott, a Republican of national stature.[30] However, strong opposition to the program also existed. Critics of the program charged it with "preferential treatment" for Appalachian residents.[31] Proponents of the bill responded to these challenges by asserting that the program represented a redress of basic past shortcomings of federal spending policies in the Appalachian region. The House Committee believed that expenditures made in the Appalachian region would be of benefit to the entire nation.[32] Floor action in the Senate centered upon other economic problems in other regions brought forward by representatives of those areas. Many of these same concerns had been expressed on the floor of the House. Challenges were raised as to the mechanics of implementing such a comprehensive program. Ultimately, these concerns were overridden, and the legislation was enacted.

30/ See, 111 Cong. Rec. 1671, et seq. (Feb. 1, 1965).

31/ For instance, see, H.Rep. No. 51, 89th Cong. 1st Sess 3 (1965).

32/ Id., at 4. See also, S. Rep. No. 13, 89th Cong. 1st Sess. 3-4 (1965).

ANALYSIS OF THE ARDA

Unique Features of the Appalachian Legislation and its Programs

Five unique factors distinguished the ARDA from other previous federal aid programs and regional commissions: (1) the comprehensiveness of its approach, (2) the role of state governments, (3) the amount of funding, (4) the method of grant administration, and (5) the broadness of its mission. 33/ The comprehensive approach to regional development concerns both rural and urban problems. It includes local, state, and federal governments and combines the planning for human, natural, physical, and institutional resources. It provides funds to carry out these plans and projects. 34/ In the Appalachian program,

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33/ "Should the Appalachian Regional Commission Be Used as A Model for the Nation?," 3, Office of the Comptroller General (April 27, 1979), (afterwards cited to as the "Comptroller General's Report")

34/ Id.

unlike many other federal programs, state governments share policy-making authority with the federal government. The states prepare annual development plans, determine geographic and program areas that need assistance, and recommend projects to receive Appalachian program funds. Federal appropriations under the Appalachian programs averaged $200+ million, and the ARC is the only regional commission that engaged in major multistate public works construction, the Appalachian Development Highway System. 35/

The method of grant administration is another distinguishing program feature. Unlike other agencies which maintain networks of grants management personnel at federal headquarters, regional, state, areawide, and even local offices, the Appalachian program does not. Rather, it functions as a pass-through mechanism, transferring most of its federal appropriations to federal agencies to administer. 36/ Another unqiue feature of the Appalachian program is its broad mission. In carrying out the stated purposes of its legislative mandate--to promote economic development, to assist in meeting Appalachia's special problems, and to establish a federal-state-local approach to regional development--the ARC serves as a national experiment, testing whether state governors and the federal cochairman can effectively make policy, plan, and influence other federal, state, and local spending to benefit the region. 37/

35/ Id.

36/ Id.

37/ Id., at 5.

ANALYSIS OF THE ARDA AS ENACTED

The ARDA, as enacted in 1965, has provided the basic framework for the implementation of the Appalachian programs for nearly twenty years. While the ARDA has been amended numerous times, the basic structure established in 1965 generally remains in effect.[38/] Subsequent amendments will be discussed at length in later sections of this report.

Sec. 2. Findings and Statement of Purpose[39/]

Congress set forth its findings and conclusions about the Appalachian region in Section 2--its potential, its underdevelopment, and its future growth. The purpose of the ARDA was "to assist the region in meeting its special problems, to promote its economic development, and to establish a framework for joint Federal and State efforts toward providing the basic facilities essential to its growth and attacking its common problems and meeting its common needs on a coordinated and concerted regional basis."[40/]

Title I--The Appalachian Regional Commission (Cited to afterwards as the "ARC")

Title I created the ARC which consisted of one federal member appointed by the President and confirmed by the Senate, and the governor or his/her representative of the states covered by the ARDA. Provision was made for cooperation

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38/ See, 40 U.S.C. App. §§ 1, et seq. (1984).

39/ ARDA § 2, codified at 40 U.S.C. App. § 2 (1983).

40/ Id.

with federal agencies, for voting matters, and for salary and expenses of the Federal Cochairman.[41/]

The ARC's functions were clearly enumerated.[42/] Among its duties, the ARC was to develop comprehensive plans, conduct investigations and studies, study the interplay of various programs to maximize their effectiveness, formulate and recommend interstate compacts, encourage development of the LDDs, encourage private investment, serve as a forum for the discussion of the problems of the region and the solution to these problems, and advise the Secretary of Commerce on grant applications for administrative expenses for the LDDs.[43/]

The ARC was granted the power to make recommendations to the President and to the state governors with respect to the expenditure of funds for various programs and for additional legislation or administrative actions as would be necessary to carry out the provisions of the ARDA.[44/] The President was required to provide effective and continuing liaison between the federal government and the ARC.[45/] Provisions were made for the administrative expenses of the ARC. These expenses were to be shared between the federal government and the participating state governments.[46/]

The ARDA spelled out the administrative powers of the ARC in great detail.[47/] The ARC was authorized to adopt, amend, or repeal relevant rules or regulations;

41/ ARDA § 101(d), codified at 40 U.S.C. App § 105 (1984).

42/ ARDA § 102, codified at 40 U.S.C. App. § 102 (1984).

43/ Id.

44/ ARDA § 103, codified at 40 U.S.C. App. § 103 (1984).

45/ ARDA § 104, codified at 40 U.S.C. App. § 104 (1984).

46/ ARDA § 105, codified at 40 U.S.C. App. § 105 (1984).

47/ ARDA § 106, codified at 40 U.S.C. App. § 106 (1984).

appoint and fix compensation of an executive director and other necessary personnel; request federal entities to detail staff persons to the ARC; arrange for the services of a state or local government employee; and make arrangements with state governments to cover employee retirement and benefit plans and with the Civil Service Commission to cover federal employees in retirement or benefit programs when such employees are detailed with the ARC. 48/

In addition, the ARC was authorized to accept, use, and dispose of various types of donations; to enter into leases, contracts, and other transactions; maintain a temporary office in the District of Columbia and later establish a permanent office; and to take other actions and incur other expenses as may be "necessary or appropriate." 49/

To fulfill its needs relevant to information, the ARC was authorized to hold hearings, receive evidence, and print the results of these hearings. The ARC was empowered to arrange for the information to be furnished to it by federal, state, or local departments or agencies. The ARC was required to keep accurate and complete records of its activities which were to be available for public inspection by the Comptroller General. 50/

Stringent provisions were established to prohibit conflicts of personal financial interest with individuals connected with the ARC. Persons who violated these provisions were subject to either a fine or imprisonment. 51/ Other criteria

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48/ Id.

49/ Id.

50/ ARDA § 107, codified at 40 U.S.C. App. § 107 (1984).

51/ ARDA § 108, codified at 40 U.S.C. App. § 108 (1984).

related to financial dealings, and conflicts of interest were set forth.[52]

Title II--Special Appalachian Programs

Title II of the ARDA was divided into three sections. The first section dealt with special programs which had been designed to meet the specialized needs of the Appalachian area. The second section was concerned with tailoring or modifying existing programs to meet the needs of Appalachia. The third section covered miscellaneous provisions relevant to the Appalachian program.

Part A--New Programs

The Appalachian Development Highway System was one of the major new programs created by the ARDA. The Secretary of Commerce (cited to afterwards as the "Secretary") was to assist in the planning and the construction of the Highway System in the Appalachian region. The Appalachian System was to be planned and developed in conjunction with the Interstate System and other federal-aid highway systems so as to "provide a highway system which will open up an area or areas with a developmental potential where commerce and communication have been inhibited by lack of adequate access."[53] The ARC was required to submit proposals related to the extent, location, and related features of highways to be contructed or improved under this program. The Secretary was to have the authority to approve the whole or a part of the

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52/ ARDA § 201, codified at 40 U.S.C. App. § 201 (1984).

53/ Id.

recommendations relating to highway construction. Emphasis was to be given to the use of mineral resource materials indigenous to the Appalachian region, and the states were required to use coal derivatives in the construction of roads. Federal assistance to any construction project was limited to 50 per centum of the costs of the project, unless the Secretary determined otherwise, and in no case was federal assistance to exceed 70 per centum of the construction costs. 54/

Demonstration Health Facilities was another program inaugurated by the ARDA. The Secretary of Health, Education, and Welfare was authorized to make grants for the construction, equipment, and operation of multicounty demonstration health facilities which included hospitals, health diagnostic and treatment centers, and other facilities necessary to health. 55/ Requirements were set that no grant under this section for construction should exceed 80 percent of the costs of the project. Grants for the operation of a project were permitted to be made up to 100 percent of the costs for the two-year period beginning on the first day the project was in operation. For the following three years, funding levels could not exceed 50 percent of the costs. 56/

Section 203 of the ARDA provided for land stabilization, conservation, and erosion control measures. 57/ This measure empowered the Secretary of Agriculture to enter into agreements with landowners in the Appalachian region to provide for land stabilization, erosion and sediment control, and reclamation through changes in land use, and conservation treatment including the

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54/ Id.

55/ ARDA § 202, codified at 40 U.S.C. App. § 202 (1984).

56/ Ibid.

57/ ARDA § 203, codified at 40 U.S.C. App. § 203 (1984).

establishment of practices and measures for the conservation and development of soil, water, woodland, wildlife, and recreation resources. [58/] Specific agreements were to be entered into between the landowners and the Secretary of Agriculture, setting forth mutual responsibilities and obligations. This section provided that grants were not to exceed 80 per centum of the costs of carrying out such land uses and conservation treatment. [59/] The Secretary was empowered to issue rules and regulations pursuant to this program and was required to utilize the resources of the Soil Conservation Service. Authorizations for funds under this section were not to exceed $17 million. [60/]

To utilize timber stands, which were one of the major natural resources of the Appalachian Region, the Secretary of Agriculture was authorized to establish timber development organizations. [61/] Such activity was to include assistance in the organization and operation of private timber development organizations to improve timber productivity and quality and to improve marketing. This program was to provide continuity of management, physical consolidation of small holdings, management of forest lands, and the establishment of a permanent fund for educational purposes related to timber management. The Secretary of Agriculture was not to provide more than one-half of the initial capital requirements of

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58/ Id.

59/ Id.

60/ Id.

61/ ARDA § 204, codified at 40 U.S.C App. § 204 (1984).

such timber development organizations through loans under the Consolidated Farmers Home Administration. Funds of not more than $5 million were authorized to carry out the provisions of the timber management and development activities.

Mining area restoration was a major area of concentration of the ARDA. The Secretary of the Interior was authorized to make grants to the states to seal and fill abandoned mines and to reclaim and rehabilitate strip and surface mine areas; to plan and carry out projects to extinguish underground and outcrop mine fires; and to accelerate fish and wildlife restoration projects.[62/] Federal financial participation in these projects was not to exceed 75 per centum of the total costs. Congress stated its intent to provide for a comprehensive long-range program for reclaiming and rehabilitating strip and surface mining areas in the United States. Such a study was to be coordinated by the Secretary of the Interior, in cooperation with the Secretary of Agriculture, the Tennessee Valley Authority, and other federal, state, and local departments. This study was to examine the nature and extent of mining operations in the United States; the ownership of real property engaged in these mining operations; the effectiveness of past actions by state and local entities to remedy adverse effects of mining operations; the public benefits which result from reclamation and rehabilitation; the appropriate roles of federal, state, and local interests in the reclamation process; and the objectives and overall costs of a program of reclamation and rehabilitation.[63/]

Section 206 of the ARDA authorized the Secretary of the Army to prepare a comprehensive plan for the development and utilization of water and related

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62/ ARDA § 205, codified at 40 U.S.C. App. § 205 (1984).

63/ Id.

resources in the Appalachian region relevant to economic development.[64] Such a plan was to consider measures for the control of floods, use of rivers for industrial development, prevention of water pollution, recreational development of water resources, and other related areas. The Secretary of the Army was required to consult with the ARC, and the Secretaries of Agriculture; Commerce; Health, Education, and Welfare; Interior; the Tennessee Valley Authority; and the Federal Power Commission. The plan was to be presented to the ARC and in turn the ARC was to present it to the President, and the President was required to submit the plan to Congress with his recommendations not later than December 31, 1968. Funding authorization for this project was not to exceed $5 million.[65]

Title II--Part B--Supplementations and Modifications of Existing Programs

To enhance the training and education of residents of the region, the Secretary of Health, Education, and Welfare was authorized to make grants for the construction of school facilities needed for vocational education in areas of the region where vocational education was not currently available.[66]

In order to prevent pollution of the region's streams and to protect the health of its citizens, the Secretary of Health, Education, and Welfare was authorized to make grants for the construction of sewage treatment works.[67] This legislation supplemented the Federal Water Pollution Control Act.

64/ ARDA § 206, codified at 40 U.S.C. App. 206 (1984).

65/ Id.

66/ ARDA § 211, codified at 40 U.S.C. App. 211 (1984).

67/ ARDA § 212, codified at 40 U.S.C. App. 212 (1984).

The ARDA amended the Housing Act of 1954 to allow benefits to accrue to the residents of the Appalachian Region.[68/]

Supplements to federal grant-in-aid programs were authorized by section 214 of the ARDA. The Secretary of Commerce was authorized to allocate funds to the heads of departments, agencies, and other entities responsible for the administration of such federal grant-in-aid programs. These funds were to be used only for increasing the federal contribution to projects under such programs above the fixed maximum portion of the cost of such project otherwise authorized by the applicable law.[69/] Thus, the ceiling of federal contribution toward certain programs was raised by this section.

Title II--Part C--General Provisions

The ARDA required participating states to maintain their own efforts in improving their situation. Section 221 of the ARDA required that no state or political subdivision would be eligible for funding unless the expenditures of state funds did not fall below the average level of expenditures for its last two full fiscal years preceding the date of the enactment of the ARDA.[70/]

Provision was made in the ARDA to guarantee that no state would be required to engage or accept any program under the ARDA without the state's consent.[71/]

Criteria for program and project implementation were established by section

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68/ ARDA § 213, codified at 40 U.S.C. App. § 213 (1984).

69/ ARDA § 214, codified at 40 U.S.C. App. § 214 (1984).

70/ ARDA § 221, codified at 40 U.S.C. App. § 221 (1984).

71/ ARDA § 222, codified at 40 U.S.C. App. § 222 (1984).

223.[72] Implementation could not occur unless: (1) the ARC had consulted with the appropriate state officials concerned with the projects; (2) the ARC received the recommendations of such officials; and (3) the project plans had been recommended by the ARC and had been submitted to and approved or modified by the President or other federal officer designated by the President.

Criteria were established for program development. A specific list of criteria was established which the ARC had to consider: project must be in an area with significant growth potential; unemployment rates of the project area; relative financial resources with the governmental entities in the area of the proposed project; importance of the project in relation to other projects which might compete for the same funds; prospects that the project would improve, on a continuing basis, employment opportunities, average level of income, and economic development of the area.[73] No financial assistance under the ARDA could be used to: relocate establishments from one area to another; finance industrial plants or other industry to undertake work previously performed in another area by other subcontractors or contractors; finance the cost of electrical generation facilities; or finance facilities for the production or distribution of gas.[74]

TITLE III--Administration

Section 301 of the ARDA defined the local development districts (LDDs). Such an entity was to be certified to the ARC either by the state governor or by the state officer designated by appropriate state law to make such

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72/ ARDA § 223, codified at 40 U.S.C. App. § 223 (1984).

73/ ARDA § 224(a), codified at 40 U.S.C. App. § 224(a) (1984).

74/ ARDA § 224(b), codified at 40 U.S.C. App. § 224(b) (1984).

designation. No entity could be designated an LDD unless it fitted into one of the four following categories: 1) nonprofit incorporated body organized or chartered under the law of the state in which it is located; 2) nonprofit agency or instrumentality of a state or local government; 3) a nonprofit agency or instrumentality created through an interstate compact; or 4) a nonprofit association or combination of such bodies, agencies, and instrumentalities. 75/

Section 302 authorized the Secretary of Commerce, either directly or through the ARC, to make grants for administrative expenses to LDD's. Such grants were not permitted to exceed 75 per centum of such expenses in any one fiscal year. Restrictions were placed on the the use of grant money for administrative expenses. 76/ The Secretary of Commerce was also authorized to provide funds for investigation, research, studies, and demonstration projects which would further the purposes of the ARDA. However, such funds were not to be used for construction projects. 77/ Grant recipients, in compliance with rules and regulations set forth by the Secretary of Commerce were to maintain records of expenditures which would be available for review. Restrictions were placed on using any funds for scientific or technological research or development activity unless such expenditure was conditioned upon provisions effective to insure that all information, copyrights, patents, and other developments resulting from the activity would be available to the general public. 78/ If commercial use was made

75/ ARDA § 301, codified at 40 U.S.C. App. § 301 (1984).

76/ ARDA § 302, codified at 40 U.S.C. App. § 301 (1984).

77/ ARDA § 302(a)(2).

78/ ARDA § 302(d), codified at 40 U.S.C. App. § 302(e) (1984).

of research or other products resulting from funded activities, the Attorney General was empowered to institute an action against those parties to recover the rights to such research.[79]

An application for a grant or other assistance for a program or a project under ARDA could be made only by a state, a political subdivision of a state, or a LDD.[80] Each application was to be made through the state member of the ARC representing such applicant and such state member was required to evaluate such application for approval. Only those applications for programs and projects which were approved by the state member as meeting the requirements for assistance under the ARDA would be approved for assistance by the ARC.[81]

The ARDA required that not later than six months after the close of each fiscal year the ARC prepare and submit "a report on the activities carried out under this Act during such year" to the governor of each state in the region and to the President, for transmittal to Congress.[82]

TITLE IV--Appropriations and Miscellaneous Provisions

Section 401 provided authorizations for appropriations for the year ending June 30, 1967 which were not to exceed $252,400,000.[83]

79/ Id.

80/ ARDA § 303, codified at 40 U.S.C. App. § 303 (1984).

81/ Id.

82/ ARDA § 304, codified at 40 U.S.C App. § 304 (1984).

83/ ARDA § 401, codified at 40 U.S.C. App. § 401 (1984).

The ARDA also set labor standards.[84] All laborers and mechanics employed by contractors or others in any of the projects assisted through federal funds authorized under the ARDA were to be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor.

One of the key provisions of the ARDA was section 403 which defined the Appalachian region on a state by state basis. Each state was listed, followed by the eligible counties in each state.[85] In addition to those states set forth, the ARC was authorized to study and consider, in consultation with the governor of New York, the inclusion of such counties of New York which were contiguous to the Appalachian region. If the ARC determined that these contiguous counties had characteristics similar to those counties participating in the Appalachian program, then the ARC was authorized to invite New York to participate with the ARC's activities.[86]

The ARDA contained a severability provision that stated that if any provision of the ARDA or the applicability to any person or circumstance was held invalid, then the remainder of the ARDA and the application of such provision to other persons or circumstances was not affected.[87]

A termination date for the ARDA was originally set for July 1, 1971.[88]

84/ ARDA § 402, codified at 40 U.S.C. App. § 402 (1984).

85/ ARDA § 403, codified at 40 U.S.C. App. § 402 (1984).

86/ Id.

87/ ARDA § 404, codified at 40 U.S.C. App. 404 (1984).

88/ ARDA § 405, codified at 40 U.S.C. App. 405 (1984).

PART II--SUBSEQUENT AMENDMENTS TO THE ARDA--1965-1975

During the first decade of its existence, the ARDA was amended many times. While the scope of these amendments varied greatly, the basic legislative framework of the ARDA was preserved. Substantive changes occurred. However, these changes were enacted within the existing framework of the ARDA. The legislative history of these amendments and the impact that they have had on the ARDA and its programs during the first decade of the ARDA existence are discussed below.

DEPARTMENT OF TRANSPORTATION ACT

The Department of Transportation Act [89/] had the primary purpose of establishing the Department of Transportation (afterwards cited to as "Department") which had the primary mission of developing national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost which would be consistent with other national objectives, including the efficient utilization and conservation of the nation's resources. [90/] The enactment of this legislation necessitated amending other laws to bring about compliance and uniformity within the general legislative framework. The ARDA was amended by assigning certain functions and activities which would be performed in the future by the newly created Secretary of Transportation, or which would include the Department as a necessary executive entity. [91/]

An extensive legislative history exists to document the enactment of the Department's legislation. Congress debated the provisions of the legislation

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89/ Pub. L. 89-670, § 8(b), (c), Oct. 15, 1966, 80 Stat. 942, 943.

90/ Id., at § 2(a).

91/ See, note 89.

at length.[92] However, it appears that its concerns during the floor debate did not center upon the ARDA and the effects that the Department of Transportation Act would have on the ARDA. Brief mention is made in Committee Reports to the legislation which modified the operation of the ARDA to coordinate the functions of the Department. The Senate Committee expressed the wish that the Secretary of Commerce and the Secretary of Transportation would coordinate their efforts for the best results of the Appalachian Development Highway System.[93] The House Report outlined the provisions of the amendment as it affected the ARDA,[94] and the House Conference Report was silent as to the provision.[95]

Section 8(b) of the Department of Transportation Act provided for amendments to the ARDA. Section 201 of the ARDA as enacted provided for the oversight and planning functions of the Appalachian Development Highway System (cited to afterwards as the "Highway System") to be vested with the Secretary of Commerce. The amendment transferred the planning and coordination function to the Secretary of Transportation.[96] The Secretary of Commerce maintained the ability to plan the locations, priorities, and other function of the Highway System.[97] Another important amendment provided that the recommendations of the Secretary relevant to the Highway System were to be transferred to the Secretary

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92/ See, 112 Cong. Rec. 21,234-21,276; 24,374-24,403; 26,530-26,568; 26,640-26,652 (1966).

93/ S. Rep. No. 1659, 89th Cong., 2d Sess. 16, 28 (1966).

94/ H. Rep. No. 1701, 89th Cong., 2d Sess. 33 (1966).

95/ H. Con. Rep. No. 2236, 89th Cong., 2d Seess. (1966).

96/ Pub. L. 89-670, § 8(b)(1), (2), Oct. 15, 1966, 80 Stat. 942, 943. Codified at 40 U.S.C. App. § 201(a).

97/ Pub. L. 89-670, § 8(b)(3), Oct. 15, 1966, 80 Stat. 942, 943.

of Transportation for his/her approval.[98] Funding project limitations were transferred to the Secretary of Transportation.[99] The responsibility for using materials found in the Appalachian region and the use of coal products in highway construction was transferred to the Secretary of Transportation.[100] The amendments provided for shared authority between the Secretary of Transportation and the Secretary of Commerce regarding the extension of additional federal assistance for highway projects.[101] The funding provisions were amended so that the funds authorized for appropriations to the Secretary of Commerce were to be transferred to the Secretary of Transportation for the administration of projects approved by both Secretaries.[102]

The Department of Transportation Act also contained an amendment to section 206(c) of the ARDA which dealt with the water resource survey and which extended authority to the Secretary of the Army for activities under this section. The amendment added the Secretary of Transportation to the list of persons and organizations that the Secretary of the Army had to consult in preparing the water development plan.[103]

98/ Pub. L. 89-670, § 8(b)(4), Oct. 15, 1966, 80 Stat. 942, 943.

99/ Pub. L. 89-670, § 8(b)(5), Oct. 15, 1966, 80 Stat. 942, 943. Codified at 40 U.S.C. App. § 201(c) (1984).

100/ Pub. L. 89-670, § 8(b)(6), Oct. 15, 1966, 80 Stat. 942, 943. Codified at 40 U.S.C. App. § 201(c) (1984).

101/ Pub. L. 89-670, § 8(b)(7), Oct. 15, 1966, 80 Stat. 942, 943.

102/ Pub. L. 89-670, § 8(b)(8), Oct. 15, 1966, 80 Stat. 942, 943.

103/ Pub. L. 89-670, § 8(c), Oct. 15, 1966, 80 Stat. 943. Codified at 40 U.S.C. App. § 206)(c) (1984).

Thus, the major effects of the Department of Transportation Act on the ARDA were to transfer some of the functions of the Appalachian Regional Development Highway System to the Secretary of Transportation, to provide for shared authority between the Secretary of Commerce and the Secretary of Transportation on other functions of the Highway System, and to require the Secretary of the Army to consult with the Secretary of Transportation in conducting the water resource survey.

APPALACHIAN REGIONAL DEVELOPMENT ACT AMENDMENT OF 1967

The 1967 amendments [104/] to the ARDA provided the first major revision of the legislation since the legislation had been in operation. While these amendments made numerous changes in the legislation, many of them dealt with only questions of funding and the technical operations of various programs. The amendments were substantively significant, however, because of two changes they made in the ARDA. First, the amendments extended the non-highway Appalachian programs through 1969. Second, the position of the ARC was strengthened by allowing the authorization of appropriation of Appalachian funds directly to the President, who in turn was expected to transfer them to the Federal Cochairman for allocation. [105/] Prior to the 1967 amendments, many of the program funds had been appropriated to the various executive departments involved in operating the programs authorized by the ARDA.

104/ Appalachian Regional Development Act Amendments of 1967, Pub. L. 90-103, Title I, Oct. 11, 1967, 81 Stat. 257-266 (afterwards cited to as the "1967 Amendments").

105/ See, Osbourn Report at 31-32.

Congressional reports, debates, and hearings highlight the considerable deliberation which surrounded the enactment of the 1967 amendments. In Congress, two questions confronted legislators: 1) whether the Appalachian region should be extended and 2) what levels of funding should be extended to the various Appalachian programs.[106] Senator Randolph, the floor manager of the bill in the Senate highlighted the accomplishments of the ARC and responded to questions regarding extensions of the Appalachian region.[107] The legislation received bipartisan support from Senators Robert Kennedy, Joseph Clark, and Howard Baker.[108] Later deliberations in the Senate were in response to reductions the House had made in funding levels and in reducing the length of the Appalachian Regional Development Highway System.[109] In the House, debate focused on funding levels of the various Appalachian programs and resulted in certain reductions, as well as a reducing the proposed length of the Highway System.[110] Some House challenges to the ARDA appropriations questioned whether funds would be of better use to the rural or the urban areas of America.[111]

The House Committee on Public Works held four days of public hearings on

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106/ 113 Cong. Rec. 11,016-11,041; 25,577-25,620; 27,177-17,183; 27,326-27,328 (1967).

107/ Id., at 11,017-11,018.

108/ Id., at 11,017-11,041.

109/ Id., at 27,326-27,328.

110/ Id., at 25,577-25,620.

111/ Id., at 25,606.

proposed legislation to amend and extend the Appalachian program.[112] Witnesses discussed past and present conditions in Appalachia and what the ARC had accomplished and what work needed to be accomplished in the region. President Johnson maintained a very strong interest in the ARC programs and actively encouraged Congress to extend and expand the Appalachian programs.[113]

Congressional Reports[114] were extensive and in great detail explained the background of the ARC programs, the progress of the programs, and the future needs of the programs and the region. The reports devoted considerable attention to funding matters and specific financial needs of the various ARC programs. The reports described in great detail the progress of the various ARC programs.

The amendments provided many technical changes, minor modifications and funding provisions to the ARDA which will be briefly described below. Administrative expenses of the ARC were to be shared between the federal and the participating state governments and authorizations for the appropriations for the federal share of these administrative expenses was provided.[115] Specific statutory language was provided to allow the ARC to lease office space.[116]

112/ Appalachian Regional Development Act--1967: Hearings on H.R. 4446 and Related Bills Before the Ad Hoc Subcomm. on Appalachia of the House Committee on Public Works, 90th Cong., 1st Sess. (1967). Summarized at H. Rep. No. 548, 90th Cong., 1st Sess. 1 (1967).

113/ H. Rep. No. 548, 90th Cong., 1st Sess. 1 (1967).

114/ See, note 112. See also, S. Rep. No. 159, 90th Cong., 1st Sess. (1967), S. Conf. Rep. No. 706, 90th Cong., 1st Sess. (1967).

115/ See, note 104. See, 1967 Amendments § 103.

116/ Id., § 104.

A new section was added to the ARDA for protection for persons employed by the ARC. This section permitted a federal agency to treat service with the ARC as federal service in the case of an individual who was a federal employee immediately prior to such ARC service and who returned to federal employment within six months after such ARC service. 117/

Section 106 of the Amendments modified the Appalachian Development Highway System by providing that the Secretary of Transportation was to assist in the construction of the Highway System. Limitations were placed on the length of the construction of the Highway System. Appropriations for construction projects were authorized. 118/

Amendments to section 202 of the ARDA pursuant to demonstration health projects provided that funds could be used for training personnel; initial operating funds for centers; operating deficits; recruitment costs; and for construction and equipment. 119/ Provision was made for the use of funds for the acquisition of privately owned facilities not operated for profit, in order to provide an integrated system of health services; for the support of the Health Advisory Committee; and for grants of up to 75 per cent for the planning and evaluation of projects.

Funds were authorized for appropriation for the ARC programs dealing with land stabilization, conservation, and erosion control. 120/

117/ Id., at § 105.

118/ Id., at § 106.

119/ Id., at § 107.

120/ Id., at § 108.

The amendment language concerning mining area restoration was directed primarily at funding restoration projects and contained specific language dealing with appropriations.[121] Likewise, the amendment language regarding the water resource survey related to funding.[122]

A new section was added to the ARDA dealing with assistance for planning and other preliminary expenses of proposed housing projects under section 221 of the National Housing Act.[123] Under this new section, the Secretary of Housing and Urban Development was authorized to make loans for the preliminary costs of planning a housing project and for obtaining an insured mortgage, and for other related expenses. Considerable discretion was given to the Secretary in relation to these loans. Funds were authorized for the implementation of this project.

The amendments provided additional funds for the construction of vocational educational facilties in the Appalachian region.[124] Similarly, the amendments provided added funding for sewage treatment facilities in the region.[125]

Section 115 of the Amendments amended the Housing Act of 1964 to enable LDDs to be eligible for grants for comprehensive planning in their areas and for planning Appalachian regional programs.

121/ Id., § 110.

122/ Id., § 111.

123/ Id., § 112.

124/ Id., § 113.

125/ Id., § 114.

The amendments continued the grants-in-aid provisions to provide supplemental federal funds to various projects. Additional funding was provided through the amendments. 126/

Language in the ARDA regarding state maintenance of effort was amended to make it clear that a state's expenditures in connection with the construction of Interstate Highway System highways and expenditures of local funds were not to be considered in determining compliance with the maintenance of effort requirements of the ARDA. 127/

Language regarding implementation of Appalachian programs was modified slightly to insure that no program would be authorized until it had been determined that project plans were compatible with other federal laws and regulations, and the ARC had approved the program and determined that it would contribute to the development of the Appalachian region. 128/

Section 302 of the ARDA which provided for grants for administrative expenses of LDDs and for research and demonstration projects was modified by section 120 of the amendments. As originally enacted, the Secretary of Commerce was authorized to make grants for administrative expenses. The amendments transferred this power to the President and provided guidelines for the provision of grants. 129/ This section of the amendments also authorized the ARC to

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126/ Id., § 116.

127/ Id., § 117.

128/ Id., § 118.

129/ Id., § 120.

undertake a survey and study of acid pollution in the region.[130] Such a study was to be delivered to the President and was to identify acid pollution problems, study solutions, determine appropriate roles for governmental entities, and formulate a program to deal with the problem. The amendments also required the ARC and the recipients of federal funds to maintain records.[131] The amendments also provided funding for the activities provided by this section.[132]

The amendments made a substantative change in the requirements for project approval.[133] As enacted, the ARDA provided that a grant application could be made by a state, a political subdivision of a state, or a LDD. The amendments required that in the future, a grant application could only be made by the state member of the ARC which represented the applicant. The state member was required to review and evaluate the application.[134]

The section of the amendments dealing with appropriations specifically provided that the funds were to be appropriated directly to the President.[135] Funding was set for a two year fiscal period.

130/ Id., § 120(b).

131/ Id., § 120(c).

132/ Id., § 120(d).

133/ Id., § 121.

134/ Id.

135/ Id., § 122.

The definition of the Appalachian region was modified to encompass a greater geographic area.[136/] Additional counties of Alabama and Tennessee and, for the first time, areas of Mississippi and New York were added to the region. Language was added to state that no change in the definition of the Appalachian region could be considered by the ARC without a prior resolution by the Committee on Public Works of the Senate or the House of Representatives which would direct a study to be made of such a change.

136/ Id., § 123.

HOUSING AND URBAN DEVELOPMENT ACT OF 1968

The Housing and Urban Development Act of 1968 (cited to afterwards as the "HUD Act") [137/] had the major effect of modifying housing programs to add to the production of housing for low and moderate income families and to enable these families to buy their own homes. [138/] Section 236 of the HUD Act contained provisions such as payments to the owners of rental housing to reduce rent payments, interest reduction devices, and other techniques to assist lower and moderate-income persons to secure better housing. These programs became known as "Section 236 Programs."

The HUD Act amended section 207 of the ARDA which dealt with housing programs to extend the Section 236 benefits to the participants in the Appalachian regional housing program. [139/]

Although the legislative history surrounding the HUD Act is extensive, little attention was given to the Appalachian region. [140/] The lengthy Congressional debates did not touch on the ARDA and the impact of Section 236 on the residents of Appalachia. [141/]

137/ Pub. L. 90-448, title II, § 201(f), Aug. 1, 1968, 82 Stat. 502.

138/ Id. See, H. Rep. No. 1585, 90th Cong., 2d Sess. 1 (1968).

139/ See note 137.

140/ See, H. Rep. No. 1585, 90th Cong., 2d Sess. (1968), S. Rep. No. 1123, 90th Cong., 2d Sess. (1968); and S. Con. Rep. No. 1785, 90th Cong., 2d Sess. (1968).

141/ See, 114 Con. Rec. 15,220-15,246; 20,492-20,597; 23,636-23,692 (1968).

APPALACHIAN REGIONAL DEVELOPMENT ACT AMENDMENTS OF 1969

The ARDA Amendments of 1969 [142] had two major purposes: to extend the life of the Appalachian legislation and to provide funding to expand and continue various programs for the Appalachian region. Before the programs were extended, Congress conducted extensive hearings to determine the outcome of various Appalachian programs and to further ascertain the continuing needs of the region. [143] Extensive Congressional reports were printed which carefully analyzed the progress of the various programs and the rationale for funding or not funding various programs within the Appalachian area. [144] The Committees examined many facets of the ARC experience and made many technical changes in the ARDA to assist the ARC with its mission.

Congressional debates were lengthy and, like the Committee reports, dealt with the accomplishments of the Appalachian programs and prospects for future improvement. [145] While there was a general Congressional consensus for a continuation and expansion of the Appalachian programs, some opposition was heard. Challenges were raised that the ARC programs fostered "creeping federalism" and encouraged dependence on the federal government. [146] Objections

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142/ Pub. L. 91-123, title I, Nov. 25, 1969, 83 Stat. 213, (cited to afterwards as the "1969 Amendments").

143/ Regional Economic Development Legislation of 1969: Hearings on S. 1072 and S. 1090 Before the Subcomm. on Economic Development of the Senate Comm. on Public Works, 91st Cong., 1st Sess. (1969). Discussed at S. Rep. No. 91-291, 91st Cong., 1st Sess. 1-2 (1969).

144/ S. Rep. No. 91-291, 91st Cong., 1st Sess. 1-2 (1969). See also, H. Rep. No. 91-336, 91st Cong., 1st Sess. (1969), S. Con. Rep. No. 91-614, Nov. 12, 1969.

145/ 115 Cong. Rec. 18,549-18,557, 19,586-19,610, 33,024-33,031,34,882-34,900 (1969).

146/ Id., at 19,587.

to funding levels were raised, and questions of phasing out certain programs were brought forth.[147] Another recurring complaint was that the Appalachian program unfairly favored one region, while other areas of the country were in great need of economic rehabilitation.[148] Members also questioned and challenged what regions of the country were truly part of "Appalachia."[149] Despite these differences, the legislation passed.

While the amendments of 1969 brought about no sweeping changes in the Appalachian programs, they did provide continued or increased funding for numerous Appalachian programs. Funding was provided for the administrative expenses of the ARC.[150] Availability of funding for the development highway system was extended.[151] Committee reports continued to express Congress' concern for the continuation and expansion of the Highway system.[152] Language was added to the ARDA to provide authority for the Secretary of Health, Eeucation, and Welfare to provide grants for health planning, nutrition, and child care projects, including hosptials, regional health diagnostic

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147/ Id., at 19,591.

148/ Id., at 19,601.

149/ Id., at 34,885.

150/ 1969 Amendments, § 102.

151/ Id., § 103.

152/ S. Rep. No. 91-291, 91st Cong., 1st Sess. 4 (1969).

treatment, and other related facilities.[153] The amendments also changed from 50 to 75 per centum the level of federal support for operating such health programs.[154] Grants provided for health care were to be utilized for the early detection, diagnosis, and treatment of occupational diseases arising from coal mining, such as black lung.[155]

The 1969 amendments provided an extension of the mining restoration programs through 1971.[156] Language was added to further encourage the construction, rehabilitation, and operation by nonprofit organizations of housing for low or moderate income families.[157] Supplements to federal grant-in-aid programs were extended for three more years, and additional assistance to sewage treatment projects was provided.[158] Certain authorization ceilings were established for various segments of the Appalachian programs.[159] The amendments authorized the President to have a study conducted to determine what portions of upper New York State shared social and economic characteristics of the New England region or the Appalachian region. The report and the President's recommendations were to be submitted to Congress.[160]

153/ 1969 Amendments, § 104.

154/ Id.

155/ Id.

156/ Id., § 105.

157/ Id., § 106.

158/ Id., § 107.

159/ Id., § 109.

160/ Id., § 110.

AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970

The Airport and Airway Development and Revenue Act of 1970 (cited to afterwards as "Airport Act") [161] was directed primarily toward the expansion and the improvement of America's airport and airway system and for the imposition of airport and airway user charges. [162] Section 52(b) of the Airport Act provided for conforming amendments for other pieces of legislation which were impacted by programs established by the Airport Act. [163] This section added the Airport Act as an eligible program for the supplements to the federal grants-in-aid programs under Section 214 of the ARDA. The practical effect of this amendment was to enable supplemental federal funding for projects undertaken through the Airport Act in the Appalachian region.

Although the legislative history surrounding the enactment of the Airport Act is extensive, almost no mention was made of the ARDA and the Appalachian programs. Rather, the Committee language indicated that Section 52(b) of the Airport Act was to serve as section dealing with amendments to conform the Airport Act to existing legislation. [164]

161/ Pub. L. 91-258, § 52(b), May 21, 1970, 84 Stat. 235.

162/ See, H. Rep. No. 91-601, 91st Cong., 2d Sess. (1970), S. Rep. No. 91-706, 91st Cong. 2d Sess. (1970).

163/ See, note 161.

164/ H. Rep. No. 91-601, 91st Cong., 2d Sess. 28 (1970).

LEGISLATIVE AND EXECUTIVE ACTIONS--1971

In 1971, executive scrutiny focused on the ARDA and its various programs. The President's Advisory Commission on Executive Organization (the Ash Council) early in 1971 submitted a report to President Nixon. 165/ One of the report's recommendations was the termination of the ARC and the transfer of its economic development functions to the Economic Development Administration. President Nixon, on March 10, 1971, submitted to Congress a message requesting the enactment of a rural development special revenue sharing program. Such a proposal would have had the effect of abolishing the ARC. 166/ President Nixon contended that the "Conversion of the existing categorical aid programs. . .is a logical evolution in line with the history of these efforts and consistent with their basic purposes." 167/ President Nixon's proposal for the ARC provided that:

> In the case of the EDA, the Appalachian Regional Commission and the Title V Commissions, revenue sharing in superseding them would actually incorporate the coordinated development approach that has made them successful, at the same time it removed some of the Federal "fences" that may have restricted their activities unduly in the past . . . . With revenue sharing, therefore, as with all change, there will be adjustments to make but great benefits to be gained. Every single activity now carried on under the Commissions and categorical programs could be continued in any State whose own people decide it is worth continuing. 168/

On June 29, 1971, President Nixon vetoed S. 575, the Public Works Acceleration and Regional Development bill which would have extended the

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165/ See, Osbourn Report, at 34.

166/ Id.

167/ U.S. President, 1969-1974 (Nixon). Special Revenue Sharing for Rural Development; The President's Message to the Congress. Weekly Compilation of Presidential Documents, v. 7, Mar. 15, 1971; 456.

168/ Id.

authorizations for the ARC.[169] President Nixon made it clear in his veto message that the ARC was not the target of his veto.

> I agree that our present economic development programs should be extended while the Congress is considering my revenue sharing proposals ....The Appalachian Regional Commission has been a very useful experimental development program which can be improved upon and can serve in many respects as a model for a national program. This is essentially what I have done in proposing to the Congress Rural and Urban Community Development Revenue Sharing.[170]

In response to President Nixon's opinions stated in his veto message, the Congressional Committees eliminated the Public Works Acceleration Act Amendments of 1971.[171] Legislation was introduced to extend the provisions of the ARDA, which was ultimately enacted as the Appalachian Regional Development Act Amendments of 1971.

APPALACHIAN REGIONAL DEVELOPMENT ACT AMENDMENTS OF 1971

The Appalachian Regional Development Act Amendments of 1971[172] were of vital importance to the ARC programs in that they extended the life of the ARC for four more years, and they provided additional grant authority to carry on the ARC's projects. The 1971 amendments were contained in comprehensive legislation which also dealt with amendments to the Public Works and Economic Development Act and the "Title V" programs for assistance to other depressed regions of the nation.[173]

169/ See, Osbourn Report, at 35. See also, H.R. Rep. No. 92-372, 92d Cong. 1st Sess. 1 (1971).

170/ U.S. President, 1969-1974 (Nixon). Veto of Accelerated Public Works Bill. Weekly Compilation of Presidential Documents, v. 7, July 5, 1971, 1006.

171/ See, Osbourn Report, at 35-36.

172/ Pub. L. 92-65, Title II, §§ 202-213, Aug. 5, 1971, 85 Stat. 168-173, (cited to afterwards as the "1971 Amendments").

173/ Id. Pub. L. 92-65, Aug. 5, 1971, 85 Stat. 166.

In considering the President's veto and his accompanying message, the legislators were careful in drafting legislation for the continuation of the Appalachian programs which would take into consideration the views expressed by the President.[174/] Congressional Reports[175/] accompanying the legislation trace the legislation through the Presidential veto and summarize the major provisions of the legislation. Floor action on the bill which was ultimately enacted was limited chiefly to commending the Appalachian and other regional programs for their work and the continued needs for the economic development of the nation.[176/] As characterized much of the other legislation dealing with the Appalachian programs, Congressional support crossed party lines, and the legislative measures were passed by overwhelming majorities.[177/]

Title I of the 1971 amendments were devoted entirely to changes to the Economic Development Act of 1965. Title II was concerned exclusively with the amendments to the ARDA. Funding was provided for the administrative expenses of the ARC.[178/] Office space leasing authorizations were extended.[179/] One of the most important sections of the amendments was to provide funding authorizations to the President for Appalachian programs through fiscal year 1978.[180/]

174/ See, H. Rep. No. 92-372, 92d Cong., 1st Sess. 3 (1971).

175/ Id. See also, S. Rep. No. 92-273, 92d Cong., 1st Sess. (1971).

176/ 177 Cong. Rec. 26,427-26,434; 27,694-27,709; 28,197-28,201.

177/ Id., at 27,709, 26,432.

178/ 1971 Amendments, § 202.

179/ Id., § 203.

180/ Id., § 204.

The Amendments provided an entirely new section for the ARDA which related to Appalachian Airport Safety Improvements.[181] The Secretary of Transportation was authorized to make grants to existing airports for enhancing aviation safety and airport operations.[182] Criteria for such safety improvement projects along with funding levels of federal participation were provided.[183]

Language was added to the ARDA which specifically provided for child development services and appropriate implementing criteria.[184] Language was added to Section 205 of the ARDA to provide for the control or abatement of mine drainage pollution, and the federal share of funding for mining area restoration projects was set at not to exceed 75 per centum of the project funding.[185]

Section 208 of the Amendments revised subsections (a), (b), and (c) of section 207 of the ARDA relating to low and moderate income housing. These amendments provided for making grants to nonprofit, limited dividend, or cooperative organizations, or public bodies, for planning and obtaining federally insured mortgage financing under the National Housing Act.[186] Limitations were placed on the amounts of federal assistance which could be used on various projects.[187]

181/ Id., § 205.

182/ Id.

183/ Id.

184/ Id., § 206.

185/ Id., § 207.

186/ Id., § 208(b).

187/ Id.

New language to the ARDA permitted the implementation of vocational and technical education demonstration projects.[188] The Secretary of Health, Education, and Welfare was authorized to make grants for planning, construction, and equipping, and operating vocational and technical educational projects. These projects were to provide instruction for staff planners in areawide educational planning, services, and programs.[189] Limitations were placed on the federal level of participation as well as on the use of federal funds.[190]

Section 210 of the amendments modified the eligibility for the federal grant-in-aid program and extended the time for eligible participation in this program for four additional years.[191] Revised language allowed grants to be made to the ARC for investigation and development projects and provided greater flexibility in the level of federal funding used in such projects.[192]

Specific authorization language was provided in Section 211 to carry out the Appalachian programs through June 30, 1975. This funding language was in addition to other funding language for other specific ARC programs.[193]

188/ Id., at § 209(a).

189/ Id., at § 209(c).

190/ Id.

191/ Id., at § 210(a), (b).

192/ Id., at § 211.

193/ Id., at § 212.

The termination date of the ARDA was extended to July 1, 1975. [194/]

Section 214 of the amendments stated that no person would, on the grounds of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance under the ARDA.

REGIONAL DEVELOPMENT ACT OF 1975

The Regional Development Act of 1975 [195/] was a significant piece of legislation which set forth procedural changes and funding for both the ARDA and the Title V Action Planning Commissions. Numerous changes were made to the ARDA, and funding was provided for the ARC programs for four more years. Senator Randolph, the Senate floor leader, explained the need for the ARC programs to come to grips with the "new problems" facing Appalachia. [196/] Senator Randolph further explained the need for the various modifications and changes to existing Appalachian programs. "These [modifications] respond to the changing nature of the challenge in the region and adjust to improvements in general conditions of the region." [197/] While these modifications were numerous, none of them made radical or sweeping changes in the concept of Appalachian assistance and development; but rather, they continued the ARDA's general existing legislative framework.

There was an extensive legislative history underlying this legislation. Hearings were conducted to determine the accomplishments and the additional

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194/ Id., § 213.

195/ Pub. L. 94-188, Title I, §§ 102-122, Dec. 31, 1975, 89 Stat. 1079-1086, (Cited to afterwards as "1975 Amendments").

196/ 121 Cong. Rec. 23,353-23,354 (1975).

197/ Id., at 23,355.

needs of the Appalachian region.[198] Committee Reports[199] outlined the achievements of the programs and discussed the further needs of the area. Conference Reports[200] summarized differences of opinions and resolved these conflicts.

Tremendous attention was devoted to summarizing the accomplishments of the Appalachian programs both by the Committees and by the individual Members.[201] There appeared to be a general consensus that the programs were working, and no Member refuted the acknowledged accomplishments of the programs.

Several areas of conflict did appear which involved substantial debate, consideration, and compromise before resolution was accomplished. The chief area of dispute was the length of time for which appropriations should be authorized. The Senate felt strongly that such funding should be only for a two year period. Senator Randolph stated that a two year extension was suitable as it would provide Congressional oversight respecting the activities of the programs and on program changes. He believed that the programs should be examined within two years to make any necessary adjustments.[202] The Ford Administration and the House were in favor of funding for four years.[203] After considerable discussion, the Senate finally agreed to the four year extension. However, Senator Baker stressed

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198/ Extension of the Appalachian Regional Development Act: Hearings on S. 1513 and H.R. 4073 Before the Subcomm. on Economic Development of the Senate Comm. on Public Works, 94th Cong., 1st Sess. (1975). Discussed at S. Rep. No. 94-278, 94th Cong., 1st Sess. 6-7 (1975).

199/ S. Rep. No. 94-278, 94th Cong., 1st Sess. 6-7 (1975). See also, H. Rep. No. 94-202, 94th Cong., 1st Sess. (1975).

200/ S. Con. Rep. No. 94-552, 94th Cong., 1st Sess. (1975); H. Con. Rep. No. 94-727, 94th Cong., 1st Sess. 91975).

201/ For instance, see, 121 Cong. Rep. 15,006, et seq. (1975).

202/ Id., at 23,354.

203/ Id.

the needs for oversight. "The conferees believe it is important to provide an opportunity for oversight of the structural improvements contained in the bill and the substantial new authority in energy-related areas." 204/

The legislators discussed the importance of the coal resources of the Appalachian region and the role of energy development for the region and the entire nation. 205/ A related subject was the extension of the Highway System. Some dissent was expressed to continuing massive highway development during a time of energy shortage. 206/

Another legislative goal was to strengthen the role of the states and the individual state governors in the Appalachian development process. 207/ In discussing the Senate Conference Report, Senator Randolph remarked that: "The partnership of the State and Federal Governments is a key ingredient of the Appalachian progam. The provisions of this measure will enhance this relationship by assuring a strong voice by the States." 208/

Discussion also centered upon those areas which were included within the eligible geographic scope for participation in the Appalachian programs. 209/ Debate focused on members wishing to correct "errors" in the original ARDA legislation to include other geographic areas. 210/ However, no major geographic areas were added through this legislation.

204/ Id., at 41,012.

205/ Id., at 23,365.

206/ Id., at 15,017.

207/ Id., at 23,354; 41,442.

208/ Id., at 41,108.

209/ Id. at 15,008.

210/ Id.

Despite the differences discussed above, there was a general consensus found by the legislators. This spirit of nonpartisan cooperation was noted by Democratic Senator Montoya when he commended his Republican colleagues for their cooperation in the passage of the legislation.[211/]

Extensive language was added to the ARDA to summarize the accomplishments of the ARC programs.[212/] This section noted needs and changes in the region and stated that a primary purpose of the legislation was to coordinate federal, state, and local efforts toward: (1) anticipating efforts of alternative energy policies and practices, (2) planning for accompanying growth and change so as to maximize social and economic benefits and minimize social and environmental costs, and (3) implementing programs and projects carried out in the region by federal, state, and local governmental agencies to better meet problems caused by the nation's energy needs.[213/]

The composition of the ARC was changed so as to designate the governors of the participating states as the state members.[214/] This section strengthened the role and the participation of the various state governors in the ARC and in the Appalachian experience. This same section also amended ARC policy regarding quorum requirements, state alternate representatives for the ARC, and other administrative matters.

The 1975 amendments addressed the compensation of the Federal Cochairman of the ARC and the alternate.[215/] State members and alternates were to be compensated by each state at rates established by each state.

211/ Id., at 23,359.

212/ 1975 Amendments, at § 102.

213/ Id.

214/ Id., at § 103.

215/ Id., at § 104.

New language was added to the ARDA to provide that the ARC was required to identify the characteristics of and distinguish between the needs and goals of appropriate subregions. These subregions included such areas as central, northern, and southern Appalachia. 216/

Section 106 of the 1975 amendments was of crucial importance, as it was this section which provided appropriation authorization for an additional four year period.

The Highway System was provided with authorization for appropriations through 1981. In addition, mileage requirements were modified. 217/

The ARDA language dealing with demonstration health projects was changed to include the acquisition of health care facilities that had previously been operated for a profit, if such an acquisition would be the most cost-effective means for providing increased health services. 218/

Additional language was added to legislative provisions dealing with mining area restoration so as to permit grants for planning or engineering such projects, to provide for grant money to be used for specific materials, and to allow a waiver or release from liability respecting such lands guaranteed by state or local governments. 219/

216/ Id., at § 105.

217/ Id., at § 110.

218/ Id., at § 111.

219/ Id., at § 112.

Section 113 of the 1975 amendments provided for grants and loans for housing projects. The new language made minor changes in existing housing assistance eligibility and expanded the types of housing programs which could receive assistance.[220/] Vocational and technical education projects were expanded in the 1975 amendments. Eligible projects were expanded to include additional activities involving education, cooperative and recurrent education, and guidance and counseling.[221/]

Supplemental grant authority was expanded through Section 115 of the amendments. Additional federal grant-in-aid programs were thus made eligible for federal grant supplementation.[222/]

A new section was added to the ARDA dealing with the Appalachian state development planning process.[223/] This new section required the submission of State Development Plans. These plans were to: (a) describe state organization for Appalachian development planning, including the procedures established for the participation of LDDs in the process and the means for relating the process to state planning and budgeting and coordinating it with other federal, state, and local programs; (b) set forth the goals, objectives, and priorities of the state for the region; and (c) describe the development program for achieving the goals and objectives, including funding sources and recommendations for specific projects.[224/] Plans were required to to be revised annually and an implementing investment program was to be submitted by each state.[225/]

220/ Id., § 113.

221/ Id.

222/ Id., § 115.

223/ Id., § 118.

224/ Id.

225/ Id.

Section 119 of the amendments provided various legislative changes. Among the changes was providing assistance in preparing state development plans by specifying that grants for administrative expenses for LDDs would include costs for development of areawide plans or action programs and technical assistance activities.[226/] New demonstration projects were authorized. The section also directed the ARC to conduct a study and report on the status of Appalachian migrants in the destination to which they migrated, current migration patterns, and related issues. The ARC was to study physical hazards which were constraints on land use, such as mudslides, sink holes, and the risks associated with those hazards.

Language for the approval of development plans, investment programs, and other projects was provided.[227/] This language rewrote Section 303 of the ARDA so as to provide that State Development Plans, Regional Development Plans, and implementing investment programs had to be approved by the ARC in accordance with the Regional Development Planning Process. Once a State Development Plan was approved, the submission and approval of a project by a state, when joined by an affirmative vote of the Federal Cochairman for such a project, would be deemed to satisfy the affirmative votes for decisions.

Additional language authorized appropriatons.[228/] The termination date of the ARDA was extended to October 1, 1979.[229/] The ARC was required to submit a report to Congress by July 1, 1977 on the progress being made with various Appalachian programs.[230/]

226/ Id., § 119.

227/ Id., § 120

228/ Id., § 121.

229/ Id., § 122.

230/ Id.

PART III--DEVELOPMENTS RESPECTING THE ARDA FROM 1976--TO PRESENT

The second decade of the ARDA's existence was characterized by legislative activity dealing with the continuation of the funding of the ARC's programs. Considerations focused upon what programs should be funded and at what levels the programs should be continued. Another aspect of the legislation concerned bringing the federal assistance to the Appalachian region to a conclusion. Various "finish-up" concepts were examined. Legislative interest centered on a greater reliance upon the state and local governments for the continuation of Appalachian projects and a phase out of federal support and direction.

The history surrounding the Appalachian legislation in its second decade is less abundant than in its first decade. Much of the legislation discussed below deals solely with authorization for appropriations and was merely one segment of major funding legislation. Hence, only in a few instances was specific debate and consideration directed to the ARDA portion of appropriation legislation.

The "Finish-Up" Report submitted by the Appalachian Governors in 1981 examined the accomplishments of the ARDA and the work that remained to be completed.

1977 AMENDMENT TO THE ARDA OF 1965

The 1977 amendment to the ARDA [231/] had the specific purpose of serving as a stopgap measure to permit an extension of the period of assistance to child development programs while a study was conducted on methods for phasing out federal assistance for these programs. The amendment added language to Section 202(c) of the ARDA to provide transitional funding for child development programs for two additional

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231/ Pub. L. 95-193, Nov. 18, 1977, 91 Stat. 1412.

years. The Department of Health, Education, and Welfare and the ARC were required to make a study of the child development programs and to study problems which a federal funding phase-out would create. This study was to become a report to Congress with the recommendations from HEW and the ARC.

The House Report 232/ accompanying the legislation discussed the general background and rationale behind the legislation. The House Subcommittee on Economic Development held hearings that illustrated that a transition period was needed for development centers before the termination of federal funds. 233/ Floor debate stressed the success of the child development programs and emphasized the need for the continuation of the programs for a transitional period. 234/ It appears that there was little opposition to the extension of the funding period for the child development centers. 235/

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

The Surface Transportation Assistance Act of 1978 236/ was a major piece of legislation to authorize appropriations for the construction of certain highways, for highway safety, for mass transportation in urban and rural areas, and for other related purposes. Title I of this legislation was the Federal-Aid Highway Act of 1978 which contained Section 138 regarding the Appalachian Development

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232/ H. Rep. No. 95-738, 95th Cong., 1st Sess. (1977). There was no Senate Report or conference report.

233/ See, Id., at 2.

234/ 123 Cong. Rec. 36,286-36,289; 36,807.

235/ Id.

236/ Pub. L. 95,599, Nov. 6, 1978, 92 Stat. 2710.

Highway Program. This section amended existing law to permit the financing of the construction of the Highway System under an 80-20 per cent federal/state-funding formula and added 125 miles to the Highway System.

The Committee Reports indicated that delays occurred in the construction of the Highway System because of the inability of Appalachian states to provide the required matching funds for highway construction. 237/ The purpose of this amendment was to accelerate completion of the highway system to achieve the overall objective of improving the economic status of Appalachia.

It appears that there was a general consensus for the need for the additional funding for the completion of the Highway System. However, additional funding and mileage had been proposed to aid the Highway System, but these were reduced before the ultimate passage of the legislation. 238/

1980 AMENDMENTS TO THE PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965

Prior to the enactment of this funding measure, the House and Senate had struggled to extend the ARDA and Title V programs. On August 1, 1979, the Senate passed S. 914, the National Public Works and Economic Development Act. A companion bill, H.R. 2063, was passed by the House on November 14, 1979. The first day of conference was held on December 13, 1979. 239/ Despite numerous attempts, the differences in the two bills were not resolved, and the legislation was in conference for over 9 months. Controversies centered around funding levels which the Senate refused to approve. On September 18, 1980, the conference committee concluded that a compromise could not be reached. Because of the lack of compromise,

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237/ See, H. Rep. No. 95-1485, 95th Cong., 2d Sess. 25 (1978); and H. Con. Rep. No. 95-1797, 95th Cong., 2d Sess. 96 (1978).

238/ Id.

239/ See, 126 Cong. Rec. S 13,681 (1980). See also, 126 Cong. Rec. H 11,033.

the 1980 amendments were introduced as an extension bill to continue funding of the programs for two additional years. 240/ Thus, the legislation was simply an extension to permit the continuation of existing ARC programs. 241/

Although conferees were unable to resolve differences in the predecessor legislation, it appears that there was a general consensus for the passage of the 1980 amendments which served as a continuation of existing programs for two additional years. 242/ There were no Committee Reports to add any further insight into the legislative intent surrounding the enactment of the 1980 amendments.

SIDNEY L. CHRISTIE FEDERAL BUILDING--DESIGNATION

The original purpose of this legislation was to designate the United States Post Office and Federal Building in Huntington, West Virginia, as the "Sidney L. Christie Federal Building." 243/ The House Report and relevant floor debate discuss the career and public contributions of Sidney L. Christie. 244/ Additional language in the legislation provided that child development demonstrations which were assisted during 1979, could, upon the request of the states, be continued for support for an unspecified period of time.

240/ 126 Cong. Rec. S 13,681 (1980).

241/ Id.

242/ 126 Cong. Rec. H 11,033-11,036.

243/ Pub. L. 96-545, Dec. 18, 1980, 94 Stat. 2746.

244/ H. Rep. No. 96-431, 96th Cong., 2d Sess. (1980); 125 Cong. Rec. 28,239 (1980).

OMNIBUS BUDGET RECONCILIATION ACT OF 1981

The Omnibus Budget Reconciliation Act of 1981 made reductions in the funding levels of various Appalachian programs. 245/ The Act also provided that no part of the sums authorized for the fiscal year ending September 30, 1982 would be obligated for any project unless such a project was undertaken with funds obligated in a previous year, or was a capital project which was originally approved for funding in fiscal year 1991 and would be started and completed with funds authorized for fiscal year 1982. 246/

While the legislative history regarding the Omnibus Budget Reconciliation Act is extensive, Committee Reports only recited the provisions of the section. 247/ Floor debate, while of enormous length, did not specifically deal with the provisions of the ARDA. 248/

REPORT TO CONGRESS FROM THE APPALACHIAN GOVERNORS CONCERNING THE APPALACHIAN REGIONAL COMMISSION--"THE FINISH-UP REPORT"--DECEMBER 31, 1981

The Report to Congress from the Appalachian Governors concerning the ARC was prepared by the Appalachian Governors at the request of Congress and consisted of the governors' recommendations for an ARC finish-up program and an assessment of the ARC experience for Congressional consideration in defining an appropriate federal role in economic development. The Appalachian governors stated near the beginning of their report: "We also

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245/ Pub. L. 97-35, Title XVIII, § 1822, Aug. 13, 1981, 95 Stat. 767.

246/ Id., at § 1822(a)(4).

247/ S. Rep. No. 97-139, 97th Cong., 1st Sess. 406 (1981); H. Con. Rep. No. 97-208, 97th Cong., 1st Sess. 436-437 (1981).

248/ 126 Cong. Rec. S 6,971-6,985; S 6,989-7,021; H 3,369-3,395; S 7,517-7,518; H 5,731-5,834; S 8,987-9,009 (1981).

recognize that the Congress will be giving careful attention to defining the future role of the federal government in economic development. We commend to you the ARC process as one which has worked well for all of us and one which should be carefully considered as you debate the larger questions of national economic development goals and policies."[249/]

At various times the Appalachian governors met to discuss the Congressional request for a finish-up report. The ARC discussed the request with various public officials, business persons, and others to determine the meanq to determine the best future for the Appalachian region.[250/] The ARC sponsored special studies regarding the availability of state and local resources for the economic development of Appalachia. Attention was given to the potential of coal in the future economic development of Appalachia.[251/]

The ARC faced two challenges in devising an effective finish-up program. First, the program would have to maintain the momentum of economic progress in Appalachia during its finish-up period, and second, it would have to support a transition in Appalachia from dependence on the ARC to a capability to continue economic progress without further ARC funding.[252/] The ARC projected that both of these objectives could be met. In addition, the ARC concluded that by 1985 basic health care would be extended throughout Appalachia in a way which would permit continuation without further ARC assistance.

249/ ARC Report, at 1.

250/ Id., at 5.

251/ Id., at 6.

252/ Id.

The ARC concluded that by 1987, on the basis of a sound national economy and the implementation of the ARC's proposal, several goals would be met. It was believed that current problems limiting the market for Appalachia would be eased or eliminated and that Appalachia would be in a better position to realize the economic development potential of coal. It was projected that a development foundation for Appalachia would be in full operation and would be able to take over those ARC functions which needed to be continued.[253/] The ARC made other conclusions. Economic development capabilities of the Appalachian states and LDDs would be organized on a basis to function effectively without further ARC help. Most of the 397 Appalachian counties would have attained a level of development which would permit continued progress without ARC help. Resources of the private sector would be mobilized to create private sector jobs. Most of the problems in the 60 most distressed counties would be eased. Considerable progress would be made toward building the Appalachian Development Highway segments into a rational, integral system supportive of economic development, an objective that was thought to be achievable by 1990.[254/]

The ARC Report concluded that the finish-up program would not complete the job of bringing Appalachia fully into the mainstream of the American economy. Gaps between Appalachia and national standards in terms of income, jobs, community services, housing and health would be further narrowed, but would not be closed entirely.[255/] The ARC concluded: "The program will, however, enable us to

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253/ Id.

254/ Id.

255/ Id., at 7.

conclude efforts now in progress, to leave in place a solid base for development and to put in place with minimal disruption a mechanism to complete our progress toward economic self-sufficiency." 256/

The ARC responded to the Congressional request for a plan to complete the Appalachian Regional Development Highway System and to finish up the ARC area development program in three to five years. The ARC's program included eight key points:

Set fixed dollar ceilings and termination dates for all ARC programs.

Shift greater responsibility to state and local governments and the private sector by reducing maximum ARC funding to 50 percent.

Limit ARC highway assistance to construction of only the highest priority 550 miles of the 1,303 unimproved miles in the planned Appalachian Development Highway System.

Focus major ARC area development activities on a five-year jobs and private investment program.

Complete in three years ARC's health program by bringing basic health care to those counties not yet reached and reducing infant mortality in counties with rates more than 150 percent of the national average.

Help, in a five-year program, the 60 or so most distressed and underdeveloped counties in the Region meet their most crucial needs, especially for safe drinking water and waste disposal.

Seek help from the private sector through a development foundation for Appalachia so that a regional effort can continue after the termination of the ARC.

Leave the Region at the end of the finish-up program sufficiently strong economically to continue progress toward national standards without further ARC help. 257/

256/ Id.

257/ Id.

The ARC Report contained a history of the Appalachian region prior to the enactment of the ARDA, a history of the ARC highway program, and a history of area development progress.[258/]

In evaluating the improvements made in the Appalachian region from 1965 through 1981, the ARC indicated several areas of dramatic success. The ARC summarized the areas where substantial progress could be quantified. Outmigration from the region was reversed in the 1970's, and the growth rate in the region approached the national average.[259/] The percent of Appalachian people living in poverty was cut in half and was edging downward toward the national average. Income in the region increased by 57 percent in fixed dollars and had moved from 78 percent of the rising national average to 84 percent by 1979. Infant mortality had dropped sharply in most of the region and the number of doctors had risen.[260/] The proportions of Appalachians 24 and over with a high school education or more rose from 56 percent of the national average in 1960 to 83 percent in 1976; and when later data would be available, it was expected to show further closing of the gap.[261/] The number of private sector jobs in the Appalachian region increased by more than 1.9 million from 1965 to 1979.[262/]

In evaluating its finish-up policies, the ARC determined that its programs could be completed if eight basic policies were implemented. These ARC fundamental finish-up policies were:

258/ Id., at 9-26.

259/ Id., at 27.

260/ Id.

261/ Id.

262/ Id.

1. Dollar and time limits for the ARC highway and nonhighway programs would be set, and expenditures would be more specifically focused.

2. The Appalachian States, local governments and the private sector would accept greater financial responsibility for the ARC program.

3. Special help would be extended to the particularly distressed and underdeveloped counties in the Region.

4. The program to extend basic health care to all Appalachian counties and to reduce infant mortality would be brought to completion in three years.

5. Special emphasis would be given to increasing the export and domestic use of Appalachian coal in a manner that will contribute to a more diversified economy in the nine Appalachian coal States.

6. The role of the private sector, always important in ARC programs, would be strengthened in the finish-up period.

7. Funding of certain types of projects would be terminated, including libraries, cultural centers, hospital construction, medical buildings, recreation facilities, school construction, government offices, community centers, social service facilities and multiyear operating grants.

8. The Commission would provide a way for corporations and individuals, particularly those who have benefited from using Appalachian resources, to contribute to the economic development of the Region. 263/

The ARC's proposed program, based upon these policies was postulated to provide a transition period during which state and local resources would be mobilized, the potential of coal would be developed, and the role of the private sector in Appalachia would be strengthened. "The program would enable us to capitalize on the ARC economic development investments made over the past 17 years." 264/

The ARC Report provided specific proposals for various Appalachian projects including priorities and suggestions to maximize the available resources.

263/ Id., at 35.

264/ Id.

Considerable study and discussion were given to the highway projects, [265] development areas, [266] health care, [267] and other related subject areas. In addition, the ARC report targeted distressed counties [268] and provided guidance as to specific areas where health finish-up plans and activities were needed. [269] The ARC Report was published and presented to Congress.

265/ Id., at 35-37.

266/ Id., at 38.

267/ Id., at 41.

268/ Id., at 46.

269/ Id., at 47.

CONTINUING APPROPRIATIONS RESOLUTION FOR FISCAL YEAR 1982

A series of appropriations measures were enacted in the 1980's which provided short-term funding for the ARC and various ARC programs. Such appropriation legislation usually contained funding for a large number of federal programs and only rarely were individual budget items discussed by Members or by committees. The Continuing Appropriations Resolution for Fiscal Year 1982 provided such funds as were necessary for continuing various projects or activities at the levels that they were conducted in the fiscal year 1981.[270/] The appropriations for the ARC were covered under the Energy and Water Development Appropriations Act of the continuing appropriations legislation. The relevant committee reports did not discuss the Appalachian programs[271/] nor did the extensive floor activity in the House and in the Senate discuss the ARDA or its various programs.[272/]

CONTINUING APPROPRIATIONS RESOLUTION FOR FISCAL YEAR 1982

Additional funding for the ARC programs was provided through a joint resolution which made further continuing appropriations for various programs for the fiscal year 1982.[273/] No committee reports exist for analysis. Floor debate, while extensive, did not address the ARDA or the ARC programs.[274/]

270/ Pub. L. 97-51, § 101(a)(1), Oct. 1, 1981, 95 Stat. 958.

271/ H. Rep. No. 97-223, 97th Cong., 1st Sess. (1981); H. Con. Rep. No. 97-260, 97th Cong., 1st Sess.(1981).

272/ 127 Cong. Rec. H 6,283-6,292; S 10,373-10,417; S 10,474-10484; H 6698-6715 (1981).

273/ Pub. L. 97-85, Nov. 23, 1981, 95 Stat. 1098.

274/ 127 Cong. Rec. H 8,823-8,838; S 13,966-13,968; S 13,989-13,966 (1981).

ENERGY AND WATER DEVELOPMENT ACT

In another appropriations measure, funding was appropriated for salaries and expenses of the ARC and funding for the hire of passenger vehicles. 275/ While the major thrust of this legislation and its accompanying legislative history concerned energy and water development, certain legislative deliberations did surface in considering the extension of the various Appalachian programs. The House Report language mentioned the requirements of the finish-up program and the need for an assessment of national economic development policies and programs. 276/ In addition, the House Committee on Appropriations directed the ARC to place first priority on completing action on pending projects, especially the highway program. 277/ Similar views were expressed in the Senate Report, regarding priorities that should be given to completing ongoing activities, and that new projects should not be initiated unless they could be completed in the same fiscal year. 278/ The House Conference Report restated this opinion. 279/ Floor action on this legislation dealt primarily with the aspects of energy and water development. 280/ However, mention was made of the accomplishments of the ARC and the need to use funding for only high priority projects. 281/

275/ Pub. L. 97-88, Dec. 4, 1981, 95 Stat. 1135.

276/ H. Rep. No. 97-177, 97th Cong., 1st Sess. 147 (1981).

277/ Id., at 148.

278/ S. Rep. No. 97-256, 97th Cong., 1st Sess. 151 (1981).

279/ H. Con. Rep. No. 97-345, 97th Cong., 1st Sess. 42 (1981).

280/ 127 Cong. Rec. H 4,776-4,819; S 12,798; S 12,780-12,817; S 12,879; S 12,966-12,894 (1981).

281/ Id., at H 4,778.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1983

A Joint Resolution made continuing appropriations for fiscal year 1983 for the ARC.[282/] The legislation had the effect of continuing the level of appropriations as established by the Energy and Water Development Appropriation Act, discussed above. The legislation was a funding measure to maintain ongoing operation of government programs in the absence of the enactment of regular appropriations bills. The legislation provided that no funds should be used to initiate or to resume any project or activity for which appropriations or funds were not available during fiscal year 1982 without the prior approval of the Committees on Appropriations.[283/] While these Committee Reports outlined the basic provisions of this funding measure, they did not discuss the ARDA or any of the ARC programs.[284/] Congressional debate, although extensive, did not deal directly with the ARDA or the ARC programs.[285/]

282/ Pub. L. 97-276, § 101(g), 96 Stat. 1190, Oct. 2, 1982.

283/ Id.

284/ H. Rep. No. 97-834, 97th Cong., 2d Sess. 2 (1982); S. Rep. No. 97-581, 97th Cong., 2d Sess. 5 (1982); H. Con. Rep. No. 97-914, 97th Cong., 2d Sess. (1982).

285/ 128 Cong. Rec. H 7,388-7,413; S 12,423; S 12,443-12,444; S 12,447-12,494; S 12,492-12,508; S 12,998.

FURTHER CONTINUING APPROPRIATIONS FOR 1983

In another joint funding resolution,[286] appropriation levels for fiscal year 1983 were continued at the levels previously established under the Energy and Water Development Act described above.[287] Although Congressional Reports were extensive, they did not discuss funding or changes to the ARDA or the ARC projects. Likewise, the floor activities on the funding measure did not consider either the ARDA or the ARC projects.[288]

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1984

This appropriations measure provided for the necessary expenses of the Federal Cochairman and the alternative on the ARC and in addition provided payment for the federal share of administrative expenses of the ARC.[289] This legislation continued the expenses necessary to carry out the programs authorized by the ARDA and for other expenses.[290] The extensive floor action on this legislation did not focus on the concerns of the ARDA and the ARC projects.[291] The Congressional Reports briefly mentioned the ARDA funding measures. The Committees expressed concern that existing projects should be completed and that additional projects should not be initiated.[292]

286/ Pub. L. 97-377, § 101(f), Dec. 21, 1982, 96 Stat. 1906.

287/ H. Rep. No. 97-959, 97th Cong., 2d Sess. (1982); H. Con. Rep. No. 97-980, 97th Cong., 2d Sess. (1982).

288/ See, 128 Cong. Rec. H 9,646-9655; S 15,361-15,419; S 15,531-15,517 (1982).

289/ Pub. L. 98-50, Title IV, 97 Stat. 259, July 14, 1983.

290/ Id.

291/ See, 129 Cong. Rec. H 3,624-3,651; S 8,875-8,915.

292/ H. Rep. No. 98-217, 98th Cong., 1st Sess. 135 (1983); S. Rep. No. 98-153, 98th Cong., 1st Sess. 205 (1983).

SUPPLEMENTAL APPROPRIATIONS ACT, 1984

The Supplemental Appropriations Act of 1984 appropriated to the President an additional amount of $9,400,000 which was to remain available until expended for the Highway System.[293/] Although there is an extensive legislative history surrounding the enactment of this appropriations measure, attention did not focus on the appropriation for the Highway System.[294/] Likewise, Congressional debate did not center upon the funds appropriated for the Highway System.[295/]

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

Appropriations for the ARC programs for fiscal year 1985 were provided through the Energy and Water Development Appropriations Act.[296/] Title IV of the legislation provided appropriations for the salaries and the expenses of the ARC. In addition, funds were appropriated for ARC programs, and $100 million was made available for the Highway System. As with the previous energy and water development funding measures, Congress did not concentrate on the funding of the Appalachian programs either in committee considerations or in the floor debates. However, both the House and Senate Committee Reports indicated the continued interest in a phase-out of the ARC programs, greater reliance on the states, and a strong interest in the development of the Highway System.[297/]

293/ Pub. L. 98-181, Nov. 30, 1983, 97 Stat. 1153; at 97 Stat. 1153.

294/ H. Rep. No. 98-375, 98th Cong., 1st Sess. (1983); S. Rep. No. 98-275, 98th Cong., 1st Sess. (1983); H. Con. Rep. No. 98-551, 98th Cong., 1st Sess. (1983). See also, S. Rep. No. 98-142, 98th Cong., 1st Sess. (1983); H. Rep. No. 98-175, 98th Cong., 1st Sess. (1983)..

295/ 129 Cong. Rec. H 8,013; H 8,016-8,029; S 16,495-16,546.

296/ Pub. L. 98-360, July 16, 1984, 98 Stat. 418.

297/ S. Rep. No. 98-502, 98th Cong., 2d Sess. 291 (1984); H. Rep. No. 98-755, 98th Cong., 2d Sess. 141 (1984)

SECOND SUPPLEMENTAL APPROPRIATIONS ACT, 1984

Title I of the Second Supplemental Appropriations Act of 1984 provided $5 million in funds to the President for the use of the ARC.[298] This provision was not discussed on the floor or in the Senate Report.[299] Language concerning this appropriation was mentioned in the House Report and the House Conference Report.[300] It appears that this appropriation was made to assist specifically industrial development in Aliceville, Alabama and in Northern Mississippi.[301]

S. 65--98TH CONGRESS, SECOND SESSION

Senators Randolph and Sasser introduced S. 65[302] which contained provisions to extend the ARDA and to provide transitional assistance to the Appalachian region. The Senate reported the bill on September 29, 1984[303] and named the bill the Appalachian Transition Assistance Act of 1984. The amended bill provides for assistance for ARC programs through 1987 and provides additional asistance for the Highway System. The bill had no action in the House, and it was never enacted by the 98th Congress.

Douglas Reid Weimer
Legislative Attorney
November 30, 1984

298/ Pub.L. 98-396, Aug. 22, 1984, 98 Stat. 1380.

299/ S. Rep. No. 98-570, 98th Cong., 2d Sess. (1984).

300/ H. Rep. No. 98-916, 98th Cong., 2d Sess. 37 (1984); H. Con. Rep. No. 98-977, 98th Cong., 2d Sess. 19 (1984).

301/ Id.

302/ S. 65, 98th Cong., 2d Sess. (1984).

303/ S. Rep. No. 98-648, 98th Cong., 2d Sess. (1984).

APPENDIX

THE APPALACHIAN REGIONAL DEVELOPMENT ACT, AS AMENDED *

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*/ Codified at 40 U.S.C. App. § 1, et. seq. (1982).

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TO
TITLE 41—PUBLIC CONTRACTS

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TITLE 40—APPENDIX

The legislation in this Appendix is temporary and terminated on October 1, 1982, pursuant to the provisions of section 405 of this Appendix

APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended by Pub. L. 89-670, § 8(b), (c), Oct. 15, 1966, 80 Stat. 942, 943; Pub. L. 90-103, title I, §§ 101-114, 116-123, Oct. 11, 1967, 81 Stat. 257-266; Pub. L. 90-448, title II, § 201(f), Aug. 1, 1968, 82 Stat. 502; Pub. L. 91-123, title I, §§ 101-111, Nov. 25, 1969, 83 Stat. 214-216; Pub. L. 91-258, title I, § 52(b)(5), May 21, 1970, 84 Stat. 235; Pub. L. 92-65, title II, §§ 202-214, Aug. 5, 1971, 85 Stat. 168-173; Pub. L. 94-188, title I, §§ 102-122, 124, Dec. 31, 1975, 89 Stat. 1079-1086; Pub. L. 95-193, § 1, Nov. 18, 1977, 91 Stat. 1412; Pub. L. 95-599, title I, § 138(a), (b), Nov. 6, 1978, 92 Stat. 2710; Pub. L. 96-506, § 3, Dec. 8, 1980, 94 Stat. 2746; Pub. L. 96-545, § 2, Dec. 18, 1980, 94 Stat. 3215; Pub. L. 97-35, title XVIII, § 1822(a), Aug. 13, 1981, 95 Stat. 767.

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§ 1. Short title

This Act may be cited as the "Appalachian Regional Development Act of 1965".

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94-188, title I, § 101, Dec. 31, 1975, 89 Stat. 1079, provided that: "This title [enacting sections 225 and 303 of this Appendix, amending sections 2, 101, 102, 105 to 107, 201, 202, 205, 207, 211, 214, 223, 224, 302, 401, and 405 of this Appendix, repealing section 3134 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 2 and 201 of this Appendix] may be cited as the 'Appalachian Regional Development Act Amendments of 1975'."

SHORT TITLE OF 1971 AMENDMENT

Pub. L. 92-65, title II, § 201, July 5, 1971, 85 Stat. 168, provided that: "This title [enacting section 208 of this Appendix, amending sections 105, 108, 201, 202, 205, 207, 211, 214, 302, 401 and 405 of this Appendix, and enacting provision set out as note under section 223 of this Appendix] may be cited as the 'Appalachian Regional Development Act Amendments of 1971'."

SHORT TITLE OF 1969 AMENDMENT

Pub. L. 91-123, title I, § 101, Nov. 25, 1969, 83 Stat. 214, provided that: "This title [amending sections 105, 201, 202, 205, 207, 214, 302, 401, 403, and 405 of this

Appendix] may be cited as the 'Appalachian Regional Development Act Amendments of 1969'."

SHORT TITLE OF 1967 AMENDMENT

Pub. L. 90-103, title I, § 101, Oct. 11, 1967, 81 Stat. 257, provided that: "This title [enacting sections 109 and 207 of this Appendix, and amending sections 102, 105, 106(7), 201, 202, 203(i), 204, 205, 206(g), 211, 212(b), 214, 221, 223, 224, 302, 303, 401, and 403 of this Appendix, section 461 of this title, and section 5334(a) of Title 5, Government Organization and Employees] may be cited as the 'Appalachian Regional Development Act Amendments of 1967'."

ACTS REFERRED TO IN OTHER SECTIONS

The Appalachian Regional Development Act of 1965 is referred to in title 23 section 143; title 33 section 1257; title 42 sections 1396b, 3171, 3232, 5153.

The Appalachian Regional Development Act Amendments of 1975 are referred to in title 42 sections 3195, 3196.

§ 2. Findings and statement of purpose

(a) The Congress hereby finds and declares that the Appalachian region of the United States, while abundant in natural resources and rich in potential, lags behind the rest of the Nation in its economic growth and that its people have not shared properly in the Nation's prosperity. The region's uneven past development, with its historical reliance on a few basic industries and a marginal agriculture, has failed to provide the economic base that is a vital prerequisite for vigorous, self-sustaining growth. The State and local governments and the people of the region understand their problems and have been working and will continue to work purposefully toward their solution. The Congress recognizes the comprehensive report of the President's Appalachian Regional Commission documenting these findings and concludes that regionwide development is feasible, desirable, and urgently needed. It is, therefore, the purpose of this Act to assist the region in meeting its special problems, to promote its economic development, and to establish a framework for joint Federal and State efforts toward providing the basic facilities essential to its growth and attacking its common problems and meeting its common needs on a coordinated and concerted regional basis. The public investments made in the region under this Act shall be concentrated in areas where there is a significant potential for future growth, and where the expected return on public dollars invested will be the greatest. The States will be responsible for recommending local and State projects, within their borders, which will receive assistance under this Act. As the region obtains the needed physical and transportation facilities and develops its human resources, the Congress expects that the region will generate a diversified industry, and that the region will then be able to support itself, through the workings of a strengthened free enterprise economy.

(b) The Congress further finds and declares that while substantial progress has been made toward achieving the foregoing purposes, especially with respect to the provision of essential public facilities, much remains to be accomplished, especially with respect to the provision of essential health, education, and other public services. The Congress recognizes that changes and evolving national purposes in the decade since 1965 affect not only the Appalachian region, but also its relationship to a nation now assigning higher priority to conservation and the quality of life, values long cherished within the region. Appalachia now has the opportunity, in accommodating future growth and development, to demonstrate local leadership and coordinated planning so that housing, public services, transportation and other community facilities will be provided in a way congenial to the traditions and beauty of the region and compatible with conservation values and an enhanced quality of life for the people of the region. The Congress recognizes also that fundamental changes are occurring in national energy requirements and production, which not only risk short-term dislocations but will undoubtedly result in major long-term effects in the region. It is essential that the opportunities for expanded energy production be used so as to maximize the social and economic benefits and minimize social and environmental costs to the region and its people. It is, therefore, also the purpose of this Act to provide a framework for coordinating Federal, State and local efforts toward (1) anticipating the effects of alternative energy policies and practices, (2) planning for accompanying growth and change so as to maximize the social and economic benefits and minimize social and environmental costs, and (3) implementing programs and projects carried out in the region by Federal, State, and local governmental agencies so as to better meet the special problems generated in the region by the Nation's energy needs and policies, including problems of transportation, housing, community facilities, and human services.

(As amended Pub. L. 94-188, title I, § 102, Dec. 31, 1975, 89 Stat. 1079.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

AMENDMENTS

1975—Pub. L. 94-188 designated existing provisions as subsec. (a), and added subsec. (b).

REPORT TO CONGRESS ON PROGRESS MADE IN THE IMPLEMENTATION OF THE REGIONAL DEVELOPMENT ACT OF 1975

Section 122(b) of Pub. L. 94-188 required the Appalachian Regional Commission to submit to Congress by July 1, 1977, a report on the progress made in implementing subsec. (b) of this section, the energy related enterprise development demonstration authority in section 302 of this Appendix, as well as other amendments made by title I of Pub. L. 94-188.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 302 of this Appendix.

TITLE I—THE APPALACHIAN REGIONAL COMMISSION

§ 101. Membership and voting

(a) There is hereby established an Appalachian Regional Commission (hereinafter referred to as the "Commission") which shall be composed of one Federal member, hereinafter referred to as the "Federal Cochairman", appointed by the President by and with the advice and consent of the Senate, and one member from each participating State in the Appalachian region. The Federal Cochairman shall be one of the two Cochairmen of the Commission. Each State member shall be the Governor. The State members of the Commission shall elect a Cochairman of the Commission from among their number for a term of not less than one year.

(b) Except as provided in section 105, decisions by the Commission shall require the affirmative vote of the Federal Cochairman and of a majority of the State members (exclusive of members representing States delinquent under section 105). In matters coming before the Commission, the Federal Cochairman shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter. No decision involving Commission policy, approval of State, regional or subregional development plans or implementing investment programs, any modification or revision of the Appalachian Regional Commission Code, or any allocation of funds among the States may be made without a quorum of State members present. The approval of project and grant proposals shall be a responsibility of the Commission and exercised in accordance with section 303 of this Act.

(c) Each State member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff. The President, by and with the advice and consent of the Senate, shall appoint an alternate for the Federal Cochairman. An alternate shall vote in the event of the absence, death, disability, removal, or resignation of the State or Federal representative for which he is an alternate. A State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required to be present. No Commission powers or responsibilities specified in the last two sentences of subsection (b) of this section, nor the vote of any Commission member, may be delegated to any person not a Commission member or who is not entitled to vote in Commission meetings.

(d) The Federal Cochairman shall be compensated by the Federal Government at level III of the Executive Schedule in subchapter II of chapter 53 of title V, United States Code. His alternate shall be compensated by the Federal Government at level V of such Executive Schedule, and when not actively serving as an alternate for the Federal Cochairman, shall perform such functions and duties as are delegated to him by the Federal Cochairman. Each State member and his alternate shall be compensated by the State which they represent at the rate established by law of such State.

(As amended Pub. L. 94-188, title I, §§ 103, 104, Dec. 31, 1975, 89 Stat. 1079, 1080.)

References in Text

Level III of the Executive Schedule, referred to in subsec. (d), is set out in section 5314 of Title 5, Government Organization and Employees.

Subchapter II of chapter 53 of title V, United States Code, referred to in subsec. (d), means subchapter II (§ 5311 et seq.) of chapter 53 of Title 5.

Level V of the Executive Schedule, referred to in subsec. (d), is set out in section 5316 of Title 5.

Amendments

1975—Subsec. (a). Pub. L. 94-188, § 103(1), (2), substituted provision that each state member shall be the Governor for provision that each state member may be the Governor, or his designee, or such other person as may be provided by the law of the state which he represents, and added provision that the term of the Cochairman shall be for not less than a year.

Subsec. (b). Pub. L. 94-188, § 103(3), added provisions requiring quorum of State members for Commission policy, approval of State, regional, or subregional development plans or implementing investment programs, modification or revision of the Appalachian Regional Commission Code, or allocation of funds among the States, and that the approval of the project and grant proposals shall be the responsibility of the Commission to be exercised in accordance with section 303 of this Act.

Subsec. (c). Pub. L. 94-188, § 103(4), (5), substituted provisions that each State member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff for provisions that each State member shall have an alternate, appointed by the Governor or as otherwise may be provided by the law of the State which he represents, and added provisions that State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required to be present and that no Commission powers or responsibilities specified in the last two sentences of subsec. (b) of this section nor the vote of any Commission member may be delegated to any person not a Commission member or who is not entitled to vote in the Commission meetings.

Subsec. (d). Pub. L. 94-188, § 104, in provisions relating to compensation of Federal Cochairman and his alternate, substituted references to level III of the Executive Schedule in subchapter II of chapter 53 of title V and level V of such Executive Schedule for references to level IV of the Federal Executive Salary Schedule of the Federal Executive Salary Act of 1964 and grade GS-18 of the Classification Act of 1949, as amended, respectively.

Executive Order No. 11209

Ex. Ord. No. 11209, Mar. 25, 1965, 30 F.R. 3929, which established the Federal Development Committee for Appalachia, was revoked by Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, set out as a note under section 3121 of Title 42, The Public Health and Welfare.

Section Referred to in Other Sections

This section is referred to in sections 106, 303 of this Appendix; title 42 section 3246c.

§ 102. Functions of the Commission

(a) In carrying out the purposes of this Act, the Commission shall—

(1) develop, on a continuing basis, comprehensive and coordinated plans and programs and establish priorities thereunder, giving due consideration to other Federal, State, and local planning in the region;

(2) conduct and sponsor investigations, research, and studies, including an inventory and analysis of the resources of the region, and, in cooperation with Federal, State, and local agencies, sponsor demonstration projects designed to foster regional productivity and growth;

(3) review and study, in cooperation with the agency involved, Federal, State, and local public and private programs and, where appropriate, recommend modifications or additions which will increase their effectiveness in the region;

(4) formulate and recommend, where appropriate, interstate compacts and other forms of interstate cooperation, and work with State and local agencies in developing appropriate model legislation;

(5) encourage the formation of local development districts;

(6) encourage private investment in industrial, commercial, and recreational projects;

(7) serve as a focal point and coordinating unit for Appalachian programs; and

(8) provide a forum for consideration of problems of the region and proposed solutions and establish and utilize, as appropriate, citizens and special advisory councils and public conferences.

(b) In carrying out its functions under this section, the Commission shall identify the characteristics of, and may distinguish between the needs and goals of appropriate subregional areas, including central, northern, and southern Appalachia.

(As amended Pub. L. 90–103, title I, § 102, Oct. 11, 1967, 81 Stat. 257; Pub. L. 94–188, title I, § 105, Dec. 31, 1975, 89 Stat. 1080.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means Pub. L. 89–4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

AMENDMENTS

1975—Pub. L. 94–188 designated existing provisions as subsec. (a) and added subsec. (b).

1967—Par. (9). Pub. L. 90–103 struck out par. (9) which required the Commission to advise the Secretary of Commerce on applications for grants for administrative expenses to local development districts.

TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 104 of this Appendix.

§ 103. Recommendations

The Commission may, from time to time, make recommendations to the President and to the State Governors and appropriate local officials with respect to—

(1) the expenditure of funds by Federal, State, and local departments and agencies in the region in the fields of natural resources, agriculture, education, training, health and welfare, and other fields related to the purposes of this Act; and

(2) such additional Federal, State, and local legislation or administrative actions as the Commission deems necessary to further the purposes of this Act.

REFERENCES IN TEXT

This Act, referred to in pars. (1) and (2), means Pub. L. 89–4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 104 of this Appendix.

§ 104. Liaison between Federal Government and the Commission

The President shall provide effective and continuing liaison between the Federal Government and the Commission and a coordinated review within the Federal Government of the plans and recommendations submitted by the Commission pursuant to sections 102 and 103.

FUNCTIONS OF SECRETARY OF COMMERCE

Secretary of Commerce to provide liaison required by this section, see section 1(a) of Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, set out as a note under section 3121 of Title 42, The Public Health and Welfare.

§ 105. Administrative expenses of the Commission

(a) For the period ending on June 30, 1967, the administrative expenses of the Commission shall be paid by the Federal Government. Thereafter, such expenses shall be paid 50 per centum by the Federal Government and 50 per centum by the States in the region, except that the expenses of the Federal Cochairman, his alternate, and his staff shall be paid solely by the Federal Government. The share to be paid by each State shall be determined by the Commission. The Federal Cochairman shall not participate or vote in such determination. No assist-

ance authorized by this Act shall be furnished to any State or to any political subdivision or any resident of any State, nor shall the State member of the Commission participate or vote in any determination by the Commission while such State is delinquent in payment of its share of such expenses.

(b) To carry out this section there is hereby authorized to be appropriated to the Commission to be available until expended, not to exceed $1,900,000 for the two-fiscal-year period ending June 30, 1971. To carry out this section there is hereby authorized to be appropriated to the Commission, to be available until expended, not to exceed $2,700,000 for the two-fiscal-year period ending June 30, 1973 (of such amount not to exceed $525,000 shall be available for expenses of the Federal Cochairman, his alternate, and his staff), and not to exceed $3,300,000 for the two-fiscal-year period ending June 30, 1975 (of such amount not to exceed $575,000 shall be available for expenses of the Federal Cochairman, his alternate, and his staff). To carry out this section there is hereby authorized to be appropriated to the Commission, to be available until expended, not to exceed $4,600,000 for the period beginning July 1, 1975, and ending September 30, 1977 (of such amount not to exceed $800,000 shall be available for expenses of the Federal cochairman, his alternate and his staff), and not to exceed $5,000,000 for the two-fiscal-year period ending September 30, 1979 (of such amount not to exceed $900,000 shall be available for expenses of the Federal cochairman, his alternate and his staff), and not to exceed $6,700,000 for the two-fiscal-year period ending September 30, 1981 (of such amount not to exceed $1,100,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff), and not to exceed $2,900,000 for the fiscal year ending September 30, 1982 (of such amount not to exceed $400,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff).

(As amended Pub. L. 90-103, title I, § 103, Oct. 11, 1967, 81 Stat. 257; Pub. L. 91-123, title I, § 102, Nov. 25, 1969, 83 Stat. 214; Pub. L. 92-65, title II, § 202, Aug. 5, 1971, 85 Stat. 168; Pub. L. 94-188, title I, § 106, Dec. 31, 1975, 89 Stat. 1080; Pub. L. 96-506, § 3(1), Dec. 8, 1980, 94 Stat. 2746; Pub. L. 97-35, title XVIII, § 1822(a)(1), Aug. 13, 1981, 95 Stat. 767.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

AMENDMENTS

1981—Subsec. (b). Pub. L. 97-35 substituted "$2,900,000 for the fiscal year ending September 30, 1982 (of such amount not to exceed $400,000" for "$3,350,000 for the fiscal year ending September 30, 1982 (of such amount not to exceed $550,000".

1980—Subsec. (b). Pub. L. 96-506 added provisions relating to appropriations for the two-fiscal-year period ending Sept. 30, 1981, and for the fiscal year ending Sept. 30, 1982.

1975—Subsec. (b). Pub. L. 94-188 added authorization of appropriations for the period beginning July 1, 1975 and ending September 30, 1977, and for the two-fiscal-year period ending Sept. 30, 1979.

1971—Subsec. (b). Pub. L. 92-65 substituted provisions authorizing the appropriation of $2,700,000 for the two-fiscal-year period ending June 30, 1973, of which up to $525,000 is to be available for expenses of the Federal Cochairman and his staff, and of $3,300,000 for the two-fiscal-year period ending June 30, 1975, of which up to $575,000 is to be available for expenses of the Federal Cochairman and his staff, for provisions authorizing amount up to $475,000 to be available for the expenses of the Federal Cochairman and his staff.

1969—Subsec. (b). Pub. L. 91-123 substituted provisions authorizing the appropriation of $1,900,000 for the two-fiscal year period ending June 30, 1971, for provisions that authorized the appropriation of $1,700,000 for the two-fiscal year period ending June 30, 1969, increased from $400,000 to $475,000 the amount authorized to be available for expenses of the Federal cochairman, his alternate, and his staff, and omitted provisions whereby appropriations authorized prior to the Appalachian Regional Development Act Amendments of 1967 were to remain available until expended.

1967—Subsec. (a). Pub. L. 90-103 substituted "June 30, 1967" and "50 per centum by the Federal Government and 50 per centum by the States" for "June 30 of the second full Federal fiscal year following the date of enactment of this Act [Mar. 9, 1965]" and "equally by the Federal Government and the States" and provided for payment solely by the Federal Government of the expenses of the Federal Cochairman, his alternate, and his staff.

Subsec. (b). Pub. L. 90-103 authorized appropriation of $1,700,000 for two-fiscal-year period ending June 30, 1969, made $400,000 of such sum available for expenses of the Federal Cochairman, his alternate, and his staff, and made the unexpended balances of appropriation authorization under this section prior to its amendment available until expended, such provision making $2,200,000 available to carry out this section as provided in former provisions of section 401 of the Act for period ending June 30, 1967.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 401 of this Appendix.

§ 106. Administrative powers of Commission

To carry out its duties under this Act, the Commission is authorized to—

(1) adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the performance of its functions.

(2) appoint and fix the compensation of an executive director and such other personnel as may be necessary to enable the Commission to carry out its functions, except that such compensation shall not exceed the salary of the alternate to the Federal Cochairman on the Commission as provided in section 101. The executive director shall be responsible for carrying out the administrative functions of the Commission, for direction of the Commission staff, and for such other duties as the Commission may assign. No member, alternate, officer, or employee of the Commission, other than the Federal Cochairman on the Commission, his staff, and his alternate and Federal employees detailed

to the Commission under paragraph (3) shall be deemed a Federal employee for any purpose.

(3) request the head of any Federal department or agency (who is hereby so authorized) to detail to temporary duty with the Commission such personnel within his administrative jurisdiction as the Commission may need for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(4) arrange for the services of personnel from any State or local government or any subdivision or agency thereof, or any intergovernmental agency.

(5) make arrangements, including contracts, with any participating State government for inclusion in a suitable retirement and employee benefit system of such of its personnel as may not be eligible for, or continue in, another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel. The Director of the Office of Personnel Management of the United States is authorized to contract with the Commission for continued coverage of Commission employees, who at date of Commission employment are Federal employees, in the retirement program and other employee benefit programs of the Federal Government.

(6) accept, use, and dispose of gifts or donations of services or property, real, personal, or mixed, tangible or intangible.

(7) enter into and perform such contracts, leases (including, notwithstanding any other provision of law, the lease of office space for any term expiring no later than September 30, 1982), cooperative agreements, or other transactions as may be necessary in carrying out its functions and on such terms as it may deem appropriate, with any department, agency, or instrumentality of the United States (which is hereby so authorized to the extent not otherwise prohibited by law) or with any State, or any political subdivision, agency, or instrumentality thereof, or with any person, firm, association, or corporation.

(8) maintain a temporary office in the District of Columbia and establish a permanent office at such a central and appropriate location as it may select and field offices at such other places as it may deem appropriate.

(9) take such other actions and incur such other expenses as may be necessary or appropriate.

(As amended Pub. L. 90-103, title I, § 104, Oct. 11, 1967, 81 Stat. 257; Pub. L. 92-65, title II, § 203, Aug. 5, 1971, 85 Stat. 168; Pub. L. 94-188, title I, §§ 107, 108, Dec. 31, 1975, 89 Stat. 1080, 1081; Pub. L. 96-506, § 3(2), Dec. 8, 1980, 94 Stat. 2746; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 3307, 92 Stat. 3783.)

REFERENCES IN TEXT

This Act, referred to in opening phrase, means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

AMENDMENTS

1980—Par. (7). Pub. L. 96-506 substituted "September 30, 1982" for "September 30, 1979".

1975—Par. (2). Pub. L. 94-188, § 108, added provisions that the executive director shall be responsible for carrying out the administrative functions of the Commission, for direction of the Commission staff, and for such other duties as the Commission may assign.

Par. (7). Pub. L. 94-188, § 107, substituted "September 30, 1979" for "June 30, 1975".

1971—Par. (7). Pub. L. 92-65 substituted "June 30, 1975" for "June 30, 1971".

1967—Par. (7). Pub. L. 90-103 inserted the parenthetical provisions "(including, notwithstanding any other provision of law, the lease of office space for any term expiring no later than June 30, 1971)" and "(which is hereby so authorized to the extent not otherwise prohibited by law)".

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" was substituted for "Civil Service Commission" in par. (5), pursuant to reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in the United States Civil Service Commission to the Director of the Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 108 of this Appendix; title 5 section 5334.

§ 107. Information

(a) In order to obtain information needed to carry out its duties, the Commission shall—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable, a Cochairman of the Commission, or any member of the Commission designated by the Commission for the purpose, being hereby authorized to administer oaths when it is determined by the Commission that testimony shall be taken or evidence received under oath;

(2) arrange for the head of any Federal, State, or local department or agency (who is hereby so authorized to the extent not otherwise prohibited by law) to furnish to the Commission such information as may be available to or procurable by such department or agency; and

(3) keep accurate and complete records of its doings and transactions which shall be made available for public inspection, and for the purpose of audit and examination by the Comptroller General or his duly authorized representatives.

(b) Public participation in the development, revision, and implementation of all plans and programs under this Act by the Commission, any State or any local development district shall be provided for, encouraged, and assisted.

The Commission shall develop and publish regulations specifying minimum guidelines for such public participation, including public hearings.

(As amended Pub. L. 94-188, title I, § 109, Dec. 31, 1975, 89 Stat. 1081.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 8, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

AMENDMENTS

1975—Pub. L. 94-188 designated existing provisions as subsec. (a) and added subsec. (b).

§ 108. Personal financial interests

(a) Except as permitted by subsection (b) hereof, no State member or alternate and no officer or employee of the Commission shall participate personally and substantially as member, alternate, officer, or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization (other than a State or political subdivision thereof) in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest. Any person who shall violate the provisions of this subsection shall be fined not more than $10,000, or imprisoned not more than two years, or both.

(b) Subsection (a) hereof shall not apply if the State member, alternate, officer, or employee first advises the Commission of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by the Commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Commission may expect from such State member, alternate, officer, or employee.

(c) No State member or alternate shall receive any salary, or any contribution to or supplementation of salary for his services on the Commission from any source other than his State. No person detailed to serve the Commission under authority of paragraph (4) of section 106 shall receive any salary or any contribution to or supplementation of salary for his services on the Commission from any source other than the State, local, or intergovernmental department or agency from which he was detailed or from the Commission. Any person who shall violate the provisions of this subsection shall be fined not more than $5,000, or imprisoned not more than one year, or both.

(d) Notwithstanding any other subsection of this section, the Federal Cochairman and his alternate on the Commission and any Federal officers or employees detailed to duty with it pursuant to paragraph (3) of section 106 shall not be subject to any such subsection but shall remain subject to sections 202 through 209 of title 18, United States Code.

(e) The Commission may, in its discretion, declare void and rescind any contract, loan, or grant of or by the Commission in relation to which it finds that there has been a violation of subsection (a) or (c) of this section, or any of the provisions of sections 202 through 209 of title 18, United States Code.

§ 109. Amendment of section 5334(a) of title 5

Section 5334(a) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "For the purpose of this subsection, an individual employed by the Appalachian Regional Commission under section 106(a) of the Appalachian Regional Development Act of 1965, or by a regional commission established pursuant to section 502 of the Public Works and Economic Development Act of 1965, under section 506(2) of such Act, who was a Federal employee immediately prior to such employment by a commission and within six months after separation from such employment is employed in a position to which this subchapter applies, shall be treated as if transferred from a position in the executive branch to which this subchapter does not apply."

(Added Pub. L. 90-103, title I, § 105, Oct. 11, 1967, 81 Stat. 257.)

REFERENCES IN TEXT

Section 106(a) of the Appalachian Regional Development Act, referred to in text, probably means section 106(2) of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 8, which is set out in this Appendix.

Section 502 of the Public Works and Economic Development Act of 1965 and section 506(2), of such Act, referred to in text, are sections 502 and 506(2) of Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 564, 567, which enacted sections 3182 and 3186, respectively, of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 97-35, title XVIII, § 1821(a)(8), Aug. 13, 1981, 95 Stat. 766.

This subchapter, referred to in text, means subchapter III (§ 5331 et seq.) of chapter 53 of Title 5, Government Organization and Employees.

TITLE II—SPECIAL APPALACHIAN PROGRAMS

PART A—NEW PROGRAMS

§ 201. Appalachian development highway system

(a) In order to provide a highway system which, in conjunction with the Interstate System and other Federal-aid highways in the Appalachian region, will open up an area or areas with a developmental potential where commerce and communication have been inhibited by lack of adequate access, the Secretary of

Transportation (hereafter in this section referred to as the "Secretary") is authorized to assist in the construction of an Appalachian development highway system and local access roads serving the Appalachian region. The provisions of sections 106(a) and 118 of title 23, United States Code, relating to the obligation, period of availability, and expenditure of Federal-aid highway funds, shall apply to the development highway system and the local access roads, and all other provisions of such title 23 that are applicable to the construction and maintenance of Federal-aid primary and secondary highways and which the Secretary determines are not inconsistent with this Act shall apply, respectively, to such system and roads. Construction on the development highway system shall not exceed three thousand and twenty-five miles. Construction of local access roads shall not exceed one thousand four hundred miles that will serve specific recreational, residential, educational, commercial, industrial, or other like facilities or will facilitate a school consolidation program.

(b) The Commission shall transmit to the Secretary its designations of (1) the general corridor location and termini of the development highways, (2) local access roads to be constructed, (3) priorities for the construction of segments of the development highways, and (4) other criteria for the program authorized by this section. Before any State member participates in or votes on such designations, he shall have obtained the recommendations of the State highway department of the State which he represents.

(c) In no event shall the Secretary assist in any construction (including right-of-way acquisition) which would require for its completion the expenditure of Federal funds (other than funds available under title 23, United States Code) in excess of the appropriations authorization in subsection (g). On its completion each development highway not already on the Federal-aid primary system shall be added to such system and each development highway and local access road shall be required to be maintained by the State as provided for Federal-aid highways in title 23, United States Code.

(d) In the construction of highways and roads authorized under this section, the States may give special preference to the use of materials and products indigenous to the Appalachian region.

(e) For the purposes of research and development in the use of coal and coal products in highway construction and maintenance, the Secretary is authorized to require each participating State, to the maximum extent possible, to use coal derivatives in the construction of not to exceed 10 per centum of the roads authorized under this Act.

(f) Federal assistance to any construction project under this section shall not exceed 80 per centum of the costs of such project.

(g) To carry out this section, there is hereby authorized to be appropriated to the President, to be available until expended, $175,000,000 for the fiscal year ending June 30, 1971; $175,000,000 for the fiscal year ending June 30, 1972; $180,000,000 for the fiscal year ending June 30, 1973; $180,000,000 for the fiscal year ending June 30, 1974; $185,000,000 for the fiscal year ending June 30, 1975; $185,000,000 for the fiscal year ending June 30, 1976; $185,000,000 for the fiscal year ending June 30, 1977; $250,000,000 for fiscal year 1978; $300,000,000 for fiscal year 1979; $300,000,000 for fiscal year 1980; $215,000,000 for fiscal year 1981; and $165,000,000 for fiscal year 1982.

(h)(1) When a participating State proceeds to construct a segment of a development highway without the aid of Federal funds, in accordance with all procedures and requirements applicable to the construction of segments of Appalachian development highways with such funds, except insofar as such procedures and requirements limit a State to the construction of projects for which Federal funds have previously been appropriated, the Secretary, upon application by the State and with the approval of the Commission, is authorized to pay to the State the Federal share not to exceed 70 per centum of the costs of the construction of such segment, from any sums appropriated and allocated to such State to carry out this section.

(2) This subsection shall not be construed as a commitment or obligation on the part of the United States to provide funds for segments of development highways constructed under this subsection, and shall not increase the limitation on construction in subsection (c).

(Pub. L. 89-4, title II, § 201, Mar. 9, 1965, 79 Stat. 10; Pub. L. 89-670, § 8(b), Oct. 15, 1966, 80 Stat. 942; Pub. L. 90-103, title I, § 106, Oct. 11, 1967, 81 Stat. 258; Pub. L. 91-123, title I, § 103, Nov. 25, 1969, 83 Stat. 214; Pub. L. 92-65, title II, § 204, Aug. 5, 1971, 85 Stat. 168; Pub. L. 94-188, title I, § 110, Dec. 31, 1975, 89 Stat. 1081; Pub. L. 95-599, title I, § 138(a), (b), Nov. 6, 1978, 92 Stat. 2710; Pub. L. 96-506, § 3(3), Dec. 8, 1980, 94 Stat. 2746; Pub. L. 97-35, title XVIII, § 1822(a)(2), Aug. 13, 1981, 95 Stat. 767.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (e), means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix and which will terminate, except for this section, Oct. 1, 1982. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1981—Subsec. (g). Pub. L. 97-35 substituted "$165,000,000" for "$215,000,000" in the appropriation for fiscal year 1982.

1980—Subsec. (g). Pub. L. 96-506 increased from $170,000,000 to $215,000,000 the amount authorized to be appropriated for fiscal year 1981, and added provision authorizing to be appropriated $215,000,000 for fiscal year 1982.

1978—Subsec. (a). Pub. L. 95-599, § 139(b), substituted "three thousand and twenty-five miles" for "two thousand nine hundred miles".

Subsec. (f). Pub. L. 95-599, § 138(a), substituted "80 per centum" for "50 per centum" and struck out provision authorizing the Commissioner to allow assistance over and above the maximum amount.

1975—Subsec. (a). Pub. L. 94-188, § 110(1), increased the limit on the construction of highway system to

2900 miles from 2700 miles and decreased the limit on the construction of local access roads from 1600 miles to 1400 miles.

Subsec. (g). Pub. L. 94-188, § 110(2), increased the authorization of appropriation for fiscal year 1978, from $180,000,000 to $250,000,000, and added authorization of appropriations for fiscal years 1979, 1980, and 1981.

1971—Subsec. (g). Pub. L. 92-65 substituted provisions authorizing to be appropriated $175,000,000 for the fiscal years ending June 30, 1971, and June 30, 1972, $180,000,000 for the fiscal years ending June 30, 1973, and June 30, 1974, $185,000,000 for the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977, and $180,000,000 for the fiscal year ending June 30, 1978, for provisions authorizing to be appropriated $175,000,000 for the fiscal years ending June 30, 1970, June 30, 1971, and June 30, 1972 and $170,000,000 for the fiscal year ending June 30, 1973.

1969—Subsec. (a). Pub. L. 91-123, § 103(a), inserted references to sections 106(a) and 118 of title 23 relating to the obligation, period of availability, and expenditures of Federal-aid highway funds as applicable to the development highway system and local access roads.

Subsec. (g). Pub. L. 91-123, § 103(b), substituted provisions authorizing to be appropriated $175,000,000 for the fiscal years ending June 30, 1970, June 30, 1971, and June 30, 1972, and $170,000,000 for the fiscal year ending June 30, 1973, for provisions authorizing to appropriated $715,000,000 for the four-fiscal year period ending June 30, 1971.

1967—Subsec. (a). Pub. L. 90-103 rearranged text sequence, defined "Secretary" for this section as the Secretary of Transportation, increased development highway system and local access roads mileage from 2,350 to 2,700 and from 1,000 to 1,600 miles, respectively, made title 23 provisions relating to construction and maintenance of Federal-aid primary highways applicable only to the development highway system, made such title 23 provisions as related to Federal-aid secondary highways applicable to local access roads, and provided that such local access roads serve also educational facilities.

Subsec. (b). Pub. L. 90-103 substituted introductory provision respecting transmission of designations for submission of recommendations and in last sentence "designations" for "recommendations" and deleted initial phrase "As soon as feasible", "the designation of" preceding "local access roads" from cl. 2), and "of the local access roads and of the major" preceding "segments" from cl. (3).

Subsec. (c). Pub. L. 90-103 included right-of-way acquisition, required State maintenance of local access roads and that State maintenance be as provided for Federal-aid highways in Title 23, and deleted initial provision authorizing the Secretary to approve in whole or in part the recommendations or to require modifications or revisions thereof.

Subsec. (d). Pub. L. 90-103 substituted "materials and products" for "mineral resource materials".

Subsec. (e). Pub. L. 90-103 eliminated "of Transportation" following "Secretary" in view of definition in subsec. (a) of this section.

Subsec. (f). Pub. L. 90-103 substituted "the Commission determines" for "the Secretary of Commerce and the Secretary of Transportation determine, pursuant to the recommendation of the Commission".

Subsec. (g). Pub. L. 90-103 substituted appropriation authorization of $715,000,000 to the President for four-fiscal-year period ending June 30, 1971, to be available until expended, for appropriation authorization of $840,000,000 to the Secretary of Commerce, who shall transfer funds to the Secretary of Transportation for administration of projects approved by both Secretaries.

Subsec. (h). Pub. L. 90-103 added subsec. (h).

1966—Subsec. (a). Pub. L. 89-670, § 8(b)(1), (2), substituted "Transportation" for "Commerce (hereafter in this section referred to as the 'Secretary')", and "Secretary of Transportation" for "Secretary".

Subsec. (b). Pub. L. 89-670, § 8(b)(3), inserted "of Commerce" after "Secretary".

Subsec. (c). Pub. L. 89-670, § 8(b)(4), (5), inserted provision for the approval of recommendations by the Secretary of Commerce prior to transmittal to the Secretary of Transportation for his approval and inserted "of Transportation" following "Secretary" in existing provisions.

Subsec. (e). Pub. L. 89-670, § 8(b)(6), inserted "of Transportation" after "Secretary".

Subsec. (f). Pub. L. 89-670, § 8(b)(7), inserted provisions requiring the approval of both the Secretary of Commerce and the Secretary of Transportation to allow Federal assistance in excess of 50 per centum of the cost of a project.

Subsec. (g). Pub. L. 89-670, § 8(b)(8), called for appropriation of the authorized funds to the Secretary of Commerce for transfer to the Secretary of Transportation for the administration of projects approved by both Secretaries.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967, as prescribed by the President and published in the Federal Register, see section 16(a), formerly § 15(a), of Pub. L. 89-670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, set out as notes under section 1651 of Title 49, Appendix, Transportation.

PAYMENT FOR CONSTRUCTION OF FINAL SECTION OF APPROVED APPALACHIAN DEVELOPMENT CORRIDOR HIGHWAY NECESSARY AS ELEMENT OF FLOOD CONTROL PROJECT

Section 138(c) of Pub. L. 95-599 provided that: "In any case where an Appalachian development highway on the Federal-aid primary system, is the final section of an approved Appalachian development corridor highway within an urbanized area, transects an unincorporated jurisdiction, and is a necessary element of a flood control project for the protection of a commercially zoned area containing not less than seventy commercial and industrial establishments which is authorized under section 205 of the Flood Control Act of 1948 [section 701s of Title 33, Navigation and Navigable Waters], the Secretary of Transportation shall provide to the State highway department so much of the costs, not to exceed $1,800,000, as may be necessary to permit construction of that portion of such development highway as is necessary to permit completion of the flood control project. The Federal share of the total cost of any complete Appalachian development highway a portion of which receives assistance under this subsection [this note] shall not exceed (including all assistance under this subsection) that percentage of such total cost which, but for this subsection, would otherwise be applicable to such development highway."

NEW AND INCREASED AUTHORITY TO ENTER INTO CONTRACTS; RELATION TO AMOUNTS APPROPRIATED

Section 124 of Pub. L. 94-188 provided that: "To the extent that any section of this title [see Short Title of 1975 Amendment note set out under section 1 of this Appendix] provides new or increased authority to enter into contracts under section 201 of the Appalachian Regional Development Act of 1965 [this section], such new or increased authority shall be effective for any fiscal year only in such amounts as are provided in appropriation acts."

DISCRIMINATION BASED ON SEX PROHIBITED IN PROGRAMS UNDER APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

Pub. L. 92-65, title II, § 214, Aug. 5, 1971, 85 Stat. 173, provided: "No person in the United States shall,

on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance under the Appalachian Regional Development Act of 1965 (this Appendix)."

AVAILABILITY OF FUNDS TO FEDERAL COCHAIRMAN

Funds appropriated pursuant to this section available to Federal Cochairman of Appalachian Regional Commission, see section 6(a) of Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, set out as a note under section 3121 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 214, 401, 405 of this Appendix.

§ 202. Demonstration health projects

(a) In order to demonstrate the value of adequate health facilities and services to the economic development of the region, the Secretary of Health and Human Services is authorized to make grants for the planning, construction, equipment, and operation of multi-county demonstration health, nutrition, and child care projects, including hospitals, regional health diagnostic and treatment centers and other facilities and services necessary for the purposes of this section. Grants for such construction (including the acquisition of privately owned facilities not operated for profit or previously operated for profit where the acquisition of such facilities is the most cost-effective means for providing increased health services if the Commission finds that but for the acquisition for such facility such health services would not be otherwise provided in the area served by such facility, and initial equipment) shall be made in accordance with section 223 of this Act and shall not be incompatible with the applicable provisions of title VI of the Public Health Service Act (42 U.S.C. 291-291o), the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (77 Stat. 282), and other laws authorizing grants for the construction of health-related facilities, without regard to any provisions therein relating to appropriation authorization ceilings or to allotments among the States. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this Act and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provisions of law.

(b) No grant for the construction or equipment of any component of a demonstration health project shall exceed 80 per centum of such costs. The Federal contribution may be provided entirely from funds authorized under this section or in combination with funds provided under other Federal grant-in-aid programs for the construction or equipment of health-related facilities. Notwithstanding any provision of law limiting the Federal share in such other programs, funds authorized under this section may be used to increase Federal grants for component facilities of a demonstration health project to a maximum of 80 per centum of the cost of such facilities.

(c) Grants under this section for operation (including initial operating funds and operating deficits comprising among other items the costs of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with funds authorized by this section, may be made for up to 100 per centum of the costs thereof for the two-year period beginning, for each component facility or service assisted under any such operating grant, on the first day that such facility or service is in operation as a part of the project. For the next three years of operations such grants shall not exceed 75 per centum of such costs. The Federal contribution may be provided entirely from funds appropriated to carry out this section or in combination with funds provided under other Federal grant-in-aid programs for the operation of health related facilities and the provisions of health and child development services, including title IV, parts A and B, and title XX of the Social Security Act. Notwithstanding any provision of the Social Security Act requiring assistance or services on a statewide basis, if a State provides assistance or services under such a program in any area of the region approved by the Commission, such State shall be considered as meeting such requirement. Notwithstanding any provision of law limiting the Federal share in such other programs, funds appropriated to carry out this section may be used to increase Federal grants for operating components of a demonstration health project to the maximum percentage cost thereof authorized by this subsection. No grant for operation of a demonstration health project shall be made unless the facility is publicly owned, or owned by a public or private nonprofit organization, and is not operated for profit. No grants for operation of a demonstration health project shall be made after five years following the commencement of the initial grant for operation of the project, except that child development demonstrations assisted under this section during fiscal year 1979 may, upon State request, be approved under section 303 of this Act for continued support beyond that period if the Commission finds that no Federal, State, or local funds are available to continue such demonstrations. No such grants shall be made unless the Secretary of Health and Human Services is satisfied that the operation of the project will be conducted under efficient management practices designed to obviate operating deficits. Notwithstanding section 104 of the Public Works and Economic Development Act of 1965 (79 Stat. 554; 42 U.S.C. 3134), a health-related facility constructed under title I of that Act may be a component of a demonstration health project eligible for operating grant assistance under this section.

(d) The Secretary of Health and Human Services is authorized to provide funds to the Commission for the support of its Health Advisory Committee and to make grants for expenses of planning necessary for the development and operation of demonstration health projects for the region. The amount of any such grant shall not exceed 75 per centum of such expenses. The Federal contribution to such expenses of planning may be provided entirely from funds

authorized under this section or in combination with funds provided under other Federal or Federal grant-in-aid programs. Notwithstanding any provision of law limiting the Federal share in any such other program, funds appropriated to carry out this section may be used to increase such Federal share to the maximum percentage cost thereof authorized by this subsection.

(e) In order to provide for the further development of the Appalachian region's human resources, grants under this section shall give special emphasis to programs and research for the early detection, diagnosis, and treatment of occupational diseases arising from coal mining, such as black lung.

(As amended Pub. L. 90-103, title I, § 107, Oct. 11, 1967, 81 Stat. 259; Pub. L. 91-123, title I, § 104, Nov. 25, 1969, 83 Stat. 214; Pub. L. 92-65, title II, § 206, Aug. 5, 1971, 85 Stat. 169; Pub. L. 94-188, title I, § 111, Dec. 31, 1975, 89 Stat. 1081; Pub. L. 95-193, § 1, Nov. 18, 1977, 91 Stat. 1412; Pub. L. 96-88, title V, § 509(b) Oct. 17, 1979, 93 Stat. 695; Pub. L. 96-545, § 2, Dec. 18, 1980, 94 Stat. 3215.)

REFERENCES IN TEXT

Section 223 of this Act, referred to in subsec. (a), is section 223 of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 18, which is set out as section 223 of this Appendix.

The Public Health Service Act, referred to in subsec. (a), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title VI of the Public Health Service Act is classified generally to subchapter IV (§ 291 et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (77 Stat. 282), referred to in subsec. (a), is Pub. L. 88-164, Oct. 31, 1963, 77 Stat. 282, as amended, which was classified principally to subchapter III (§ 3689 et seq.) of chapter 33 and chapter 75 (§ 6000 et seq.) of Title 42, The Public Health and Welfare. Such subchapter III was popularly known as the Community Mental Health Centers Act prior to repeal by Pub. L. 97-35, title IX, § 903(e)(2)(B), Aug. 13, 1981, 95 Stat. 560. For complete classification of these Acts to the Code, see Tables.

This Act, referred to in subsec. (a), means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Parts A and B of title IV of the Social Security Act are classified generally to part A (§ 601 et seq.) and part B (§ 620 et seq.) of subchapter IV of chapter 7 of Title 42. Title XX of the Social Security Act is classified generally to subchapter XX (§ 1397 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 303 of this Act, referred to in subsec. (c), is section 303 of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 20, which is set out as section 303 of this Appendix.

Section 104 of the Public Works and Economic Development Act of 1965 (79 Stat. 554; 42 U.S.C. 3134), referred to in subsec. (c), was repealed by Pub. L. 94-188, title I, § 123, Dec. 31, 1975, 89 Stat. 1086.

Title I of that Act, referred to in subsec. (c), means title I of Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 553, as amended, known as the Public Works and Economic Development Act of 1965. Title I of the Public Works and Economic Development Act of 1965 is classified generally to subchapter I (§ 3131 et seq.) of chapter 38 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

AMENDMENTS

1980—Subsec. (c). Pub. L. 96-545 substituted provisions relating to child development demonstrations assisted during fiscal year 1979, for provisions relating to maximum amount of transitional funding.

1977—Subsec. (c). Pub. L. 95-193 inserted "except that transitional funding not to exceed 75 per centum of annual operating costs may be approved for not more than two additional years of operations for child development demonstrations if the Commission finds that no Federal, State, or local funds are available to continue such demonstrations" following "the initial grant for operation of the project".

1975—Subsec. (a). Pub. L. 94-188, § 111(1), in provisions relating to acquisition of facilities, added reference to facilities previously operated for profit where the acquisition of such facility is the most cost-effective means for providing increased health services on a finding by the Commission that but for the acquisition of such facility such health services would not otherwise be provided in the area served by such facility, and also added reference to section 223 of this Act.

Subsec. (c). Pub. L. 94-188, § 111(2), in provisions relating to funds from which federal contributions may be made, added reference to title XX of the Social Security Act.

1971—Subsec. (c). Pub. L. 92-65, § 206(a), added provision that Federal funds authorized under Federal grant programs for the provision of child development services, including title IV of the Social Security Act, may be used in combination with funds provided under this Appendix and further provided an exception to the Social Security Act to permit states to utilize funds for programs or projects that would be implemented in the Appalachian states without regard to any provision of law requiring the providing of this type of assistance or service on a statewide basis.

Subsec. (d). Pub. L. 92-65, § 206(b), added provision that the Federal contribution to the expenses of planning may be provided entirely from funds under this section or in combination with funds provided under other Federal or Federal grant-in-aid programs and that funds appropriated to carry out this section may be used to increase such Federal share to the maximum percentage cost authorized by this subsection.

1969—Subsec. (a). Pub. L. 91-123, § 104(a), authorized the Secretary to make grants for planning, construction, equipment, and operation of multi-county nutrition and child care projects.

Subsec. (c). Pub. L. 91-123, § 104(b), increased from 50 to 75 per centum of the costs for health projects the maximum amounts allowed for grants for the third, fourth, and fifty years of operations of such health projects.

Pub. L. 91-123, § 104(c), added provisions authorizing operating expenses for demonstration projects to be wholly funded by appropriations for this section, or in combination with funds provided to carry out other Federal grant-in-aid programs for the operation of health related facilities, and authorizing funds appropriated for this section to be used to increase Federal grants for operating components of demonstration health projects to the maximum per centum authorized by this subsection.

Subsec. (e). Pub. L. 91-123, § 104(d), substituted provisions that grants under this section, give special emphasis to research for the early detection, and treatment of occupational diseases arising from coal

mining, for provisions that authorized to be appropriated an amount not to exceed $50,000,000 of the funds authorized in section 401 of this Act for the two-fiscal year period ending June 30, 1969 to carry out the purposes of this section.

1967—Subsec. (a). Pub. L. 90-103 substituted "health facilities and services" for "health and medical facilities" and "health projects" for "health facilities", authorized planning grants, other services necessary to health, and grants for acquisition of privately owned facilities not operated for profit, and provided that construction grants be also made in accordance with other laws authorizing grants for construction of health-related facilities.

Subsec. (b). Pub. L. 90-103 designated sources of funds for the Federal contribution and authorized use of the funds to increase Federal grants for facilities of a demonstration health project to a maximum of 80 per centum of the costs of such facilities, and eliminated provisions for availability of $41,000,000 for construction grants for period ending June 30, 1967, as provided in former provisions of section 401 of the Act, now incorporated in subsec. (e) of this section.

Subsec. (c). Pub. L. 90-103 provided for operating funds and operating deficits comprising among other items the costs of attracting, training, and retaining qualified personnel, for projects whether or not constructed with funds authorized by this section, for component facility or service assisted under any operating grant, prohibited grants for operation of a project unless the facility is publicly owned, or owned by a public or private nonprofit organization, and is not operated for profit and unless the Secretary of Health, Education, and Welfare is satisfied that the operation of the project will be conducted under efficient management practices designed to deprive obviate operating deficites, and permitted a health-relat facility constructed under title I of the Public Work and Economic Development Act of 1965 to be a component of a health project eligible for operating grant assistance under this section, and eliminated provisions for availability of $28,000,000 for operating grants for period ending June 30, 1967, as provided in former provisions of section 401 of the Act, now incorporated in subsec. (e) of this section.

Subsec. (d). Pub. L. 90-103 added subsec. (d).

Subsec. (e). Pub. L. 90-103 incorporated former second sentence of subsec. (b) and last sentence of subsec. (c) in provisions designated as subsec. (e), substituting provisions for availability of $50,000,000 for two-fiscal-year period ending June 30, 1969, to carry out this section for former provisions of subsec. (b) for availability of $41,000,000 for construction grants and former provisions of subsec. (c) for availability of $28,000,000 for operating grants for period ending June 30, 1967, as provided in former provisions of section 401 of the Act.

Change of Name

"Secretary of Health and Human Services" was substituted for "Secretary of Health, Education, and Welfare" in subsecs. (a), (c), and (d), pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

Termination of Advisory Committee

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

Study of Child Development Programs Being Assisted Under Appalachian Regional Development Act of 1965

Section 2 of Pub. L. 95-193 authorized the Appalachian Regional Commission and the Department of Health, Education, and Welfare to make a full investigation and study of the child development programs being assisted under this Appendix to determine the source and nature of any problems in the phasing out of Federal assistance to such programs, to recommend solutions to such problems, and to report to Congress their findings and recommendations not later than one year after Nov. 18, 1977.

Section Referred to in Other Sections

This section is referred to in section 401 of this Appendix.

§ 203. Land stabilization, conservation, and erosion control

(a) In order to provide for the control and prevention of erosion and sediment damages in the Appalachian region and to promote the conservation and development of the soil and water resources of the region, the Secretary of Agriculture is authorized to enter into agreements of not more than ten years with landowners, operators, and occupiers, individually or collectively, in the Appalachian region determined by him to have control for the period of the agreement of the lands described therein, providing for land stabilization, erosion and sediment control, and reclamation through changes in land use, and conservation treatment including the establishment of practices and measures for the conservation and development of soil, water, woodland, wildlife, and recreation resources.

(b) The landowner, operator, or occupier shall furnish to the Secretary of Agriculture a conservation and development plan setting forth the appropriate and safe land uses and conservation treatment mutually agreed by the Secretary and the landowner [1] operator, or occupier to be needed on the lands for which the plan was prepared.

(c) Such plan shall be incorporated in an agreement under which the landowner, operator, or occupier shall agree with the Secretary of Agriculture to carry out the land uses and conservation treatment provided for in such plan on the lands described in the agreement in accordance with the terms and conditions thereof.

(d) In return for such agreement by the landowner, operator, or occupier the Secretary of Agriculture shall be authorized to furnish financial and other assistance to such landowner, operator, or occupier in such amounts and subject to such conditions as the Secretary deter-

[1] So in original. Probably should be followed by a comma.

mines are appropriate and in the public interest for the carrying out of the land uses and conservation treatment set forth in the agreement: *Provided*, That grants hereunder shall not exceed 80 per centum of the cost of carrying out such land uses and conservation treatment on fifty acres of land occupied by such owner, operator, or occupier.

(e) The Secretary of Agriculture may terminate any agreement with a landowner, operator or occupier by mutual agreement if the Secretary determines that such termination would be in the public interest, and may agree to such modification of agreements previously entered into hereunder as he deems desirable to carry out the purposes of this section or to facilitate the practical administration of the program authorized herein.

(f) Notwithstanding any other provision of law, the Secretary of Agriculture, to the extent he deems it desirable to carry out the purposes of this section, may provide in any agreement hereunder for (1) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of such crop; or (2) surrender of any such history and allotments.

(g) The Secretary of Agriculture shall be authorized to issue such rules and regulations as he determines are necessary to carry out the provisions of this section.

(h) In carrying out the provisions of this section, the Secretary of Agriculture shall utilize the services of the Soil Conservation Service; and the State and local committees provided for in section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), and is authorized to utilize the facilities, services, and authorities of the Commodity Credit Corporation. The Corporation shall not make any expenditures to carry out the provisions of this subsection unless funds specifically appropriated for such purpose have been transferred to it.

(i) Not to exceed $19,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1969, shall be available to carry out this section.

(As amended Pub. L. 90-103, title I, § 108, Oct. 11, 1967, 81 Stat. 260.)

REFERENCES IN TEXT

Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), referred to in subsec. (h), is actually classified to section 590h(b) of Title 16, Conservation.

AMENDMENTS

1967—Subsec. (i). Pub. L. 90-103 substituted provisions for availability of $19,000,000 for two-fiscal-year period ending June 30, 1969, for former provisions for availability of $17,000,000 for period ending June 30, 1967, as provided in former provisions of section 401 of the Act.

TRANSFER OF FUNCTIONS

The administration of the program of the Commodity Credit Corporation was transferred to the Secretary of Agriculture by Reorg. Plan No. 3 of 1946, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

§ 204. Timber development organizations

(a) In order that the region shall more fully benefit from the timber stands that are one of its prime assets, the Secretary of Agriculture is authorized to—

(1) provide technical assistance in the organization and operation, under State law, of private timber development organizations having as their objective the carrying out of timber development programs to improve timber productivity and quality, and increase returns to landowners through establishment of private nonprofit corporations, which on a self-supporting basis may provide (A) continuity of management, good cutting practices, and marketing services, (B) physical consolidation of small holdings or administrative consolidation for efficient management under long-term agreement, (C) management of forest lands, donated to the timber development organizations for demonstrating good forest management, on a profitable and taxpaying basis, and (D) establishment of a permanent fund for perpetuation of the work of the corporations to be composed of donations, real or personal, for educational purposes.

(2) provide not more than one-half of the initial capital requirements of such timber development organizations through loans under the applicable provisions of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1926 et seq.). Such loans shall not be used for the construction or acquisition of facilities for manufacturing, processing, or marketing forest products, or for physical consolidation of small timber holdings authorized by (1)(B) above except for the establishment of demonstration units.

(b) The Secretary of Agriculture is authorized to provide technical assistance, make grants, enter into contracts, or otherwise provide funds, first to colleges, universities and other institutions of higher education (with priority to land grant schools), and thereafter to forest products research institutions in the region and other appropriate public and private organizations, which schools, institutions, and organizations have the demonstrated capability to perform such research, for Appalachian hardwood products research, including investigations, studies, and demonstrations, which will further the purposes of this Act. Funds shall be provided only for programs and projects which will contribute significantly to the development of (1) Appalachian hardwood technology, (2) new or improved uses of Appalachian hardwood resources, (3) new or improved processes or methods for producing hardwood products, or (4) new or improved markets for such products. Funds under this section shall be provided solely out of sums specifically appropriated for

the purposes of carrying out this Act, and shall not be taken into account in the allocation or distribution of funds pursuant to any other provision of law.

(c) Not to exceed $2,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1969, shall be available to carry out the purposes of subsection (b) of this section.

(As amended Pub. L. 90-103, title I, § 109, Oct. 11, 1967, 81 Stat. 260.)

REFERENCES IN TEXT

The Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1926 et seq.), referred to in subsec. (a)(2), is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended, known as the Consolidated Farm and Rural Development Act, which is classified principally to chapter 50 (§ 1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

This Act, referred to in subsec. (b), means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

AMENDMENTS

1967—Subsec. (b). Pub. L. 90-103 added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 90-103 redesignated former subsec. (b) as (c) and substituted provisions for availability of $2,000,000 to carry out purposes of subsec. (b) for two-fiscal-year period ending June 30, 1969, for former provisions for availability of $5,000,000 to carry out this section for period ending June 30, 1967, as provided in former provisions of section 401 of the Act.

§ 205. Mining area restoration

(a) In order to further the economic development of the region by rehabilitating areas presently damaged by deleterious mining practices, the Secretary of the Interior is authorized to—

(1) make financial contributions to States in the region to seal and fill voids in abandoned coal mines and abandoned oil and gas wells, and to reclaim and rehabilitate lands affected by the strip and surface mining and processing of coal and other minerals, including lands affected by waste piles, in accordance with provisions of the Act of July 15, 1955 (30 U.S.C. 571 et seq.) to the extent applicable, without regard to section 2(b) thereof (30 U.S.C. 572(b)) or to any provisions therein limiting assistance to anthracite coal formation, or to the Commonwealth of Pennsylvania; to control and abate mine drainage pollution; and for planning or engineering for any such activities. Grants under this paragraph shall be made wholly out of funds specifically appropriated for the purposes of carrying out this Act.

(2) plan and execute projects for planning, engineering, or extinguishing underground and outcrop mine fires in the region or to make grants to the States for carrying out such projects, in accordance with the applicable provisions of the Act of August 21, 1954 (30 U.S.C. 551 et seq.), without regard to any provisions therein relating in annual appropriation authorization ceilings. Grants under this paragraph shall be made solely out of funds specifically appropriated for the purpose of carrying out this Act.

(b) Notwithstanding any other provision of law, the Federal share of mining area restoration project costs carried out under subsection (a) of this section and conducted on lands other than federally owned lands shall not exceed 75 per centum of the total cost thereof. For the purposes of this section, such project costs may include the reasonable value (including donations) of planning, engineering, real property acquisition (limited to the reasonable value of the real property in its unreclaimed state and costs incidental to its acquisition, as determined by the Commission), and such other materials (including, but not limited to, sand, clay, stone, culm, rock, spoil bank and noncombustible materials) and services as may be required for such project.

(c) Whenever a State, local government, or other nonprofit applicant agrees to indemnify the Federal Government, or its officers, agents, or employees, for all claims of loss or damage resulting from the use and occupation of lands for a project assisted under this section, the Secretary may waive all requirements for the submission of releases, consents, waivers, or similar instruments respecting such lands, but the Secretary may require security as he deems appropriate for any such indemnification agreement.

(d) No moneys authorized by this Act shall be expended for the purposes of reclaiming, improving, grading, seeding, or reforestation of strip-mined areas, except on lands owned by Federal, State, or local government bodies or by private nonprofit entities organized under State law to be used for public recreation, conservation, community facilities, or public housing.

(As amended Pub. L. 90-103, title I, § 110, Oct. 11, 1967, 81 Stat. 261; Pub. L. 91-123, title I, § 105, Nov. 25, 1969, 83 Stat. 215; Pub. L. 92-65, title II, § 207, Aug. 5, 1971, 85 Stat. 169; Pub. L. 94-188, title I, § 112, Dec. 31, 1975, 89 Stat. 1081.)

REFERENCES IN TEXT

The Act of July 15, 1955 (30 U.S.C. 571 et seq.), referred to in subsec. (a)(1), is act July 15, 1955, ch. 369, 69 Stat. 352, as amended, which is classified generally to chapter 14 (§ 571 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsecs. (a)(1), (3), (d), means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

The Act of August 31, 1954 (30 U.S.C. 551 et seq.), referred to in subsec. (a)(2), is act Aug. 31, 1954, ch. 1156, 68 Stat. 1009, which is classified generally to chapter 12 (§ 551 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94-138, § 112(1), authorized the Secretary of the Interior to plan and engineer the activities enumerated in this subsection.

Subsec. (a)(2). Pub. L. 94-138, § 112(2), substituted "execute projects for planning, engineering, or extinguishing" for "execute projects for extinguishing".

Subsec. (b). Pub. L. 94-138, § 112(3), substituted "other materials (including, but not limited to, sand, clay, stone, culm, rock, spoil bank and noncombustible materials) and services" for "other materials and services".

Subsec. (c). Pub. L. 94-138, § 112(4), substituted provisions relating to indemnification agreements for provisions relating to study and recommendations for reclamation and rehabilitation of strip and surface mining areas.

Subsec. (d). Pub. L. 94-138, § 112(5), eliminated authorization of appropriation for the two-fiscal-year period ending June 30, 1969 and substituted provisions that the moneys be used for public recreation, conservation, community facilities, or public housing for provisions that the moneys may not be used until authorized by law after completion of the study and report to the President as provided in subsec. (c) of this section.

1971—Subsec. (a)(1). Pub. L. 92-65, § 207(a), added provisions authorizing contributions to control or abate mine drainage pollution.

Subsec. (b). Pub. L. 92-65, § 207(b), deleted fiscal year limitation, and extended the existing 75-25 Federal-State cost sharing ratio for restoration projects, and substituted new formula for the computation of costs.

1969—Subsec. (a)(2). Pub. L. 91-123, § 105(a), authorized grants to be made to States for planning, and execution of projects for the extinguishment of underground and outcrop mine fires.

Subsec. (b). Pub. L. 91-123, § 105(b), extended the Federal share provisions for mining area restoration programs to fiscal years 1970 and 1971.

1967—Subsec. (a)(1). Pub. L. 90-103, § 110(a), authorized contributions to seal and fill voids in abandoned oil and gas wells and substituted "lands affected by the strip and surface mining and processing of coal and other minerals, including lands affected by waste piles" for "existing strip and surface mine areas".

Subsec. (a)(3). Pub. L. 90-103, § 110(b), struck out subsec. (a)(3) which contained an authorization for expansion and acceleration of fish and wildlife restoration projects in the region in accordance with Act Sept. 2, 1937, and Act Aug. 9, 1950, without regard to any provisions therein for apportionments among the States and to limitations on availability of funds, provision for payment of project expenses out of specific appropriations to carry out the Act, and, provisions for disregarding such expenses in computation of apportionments among the States pursuant to other provisions of law.

Subsec. (b). Pub. L. 90-103, § 110(c), made the Federal share provisions applicable for fiscal years 1968, and 1969, included as project items reasonable planning and engineering costs, and provided for the non-Federal share of the cost of projects.

Subsec. (d). Pub. L. 90-103, § 110(d), substituted provisions for availability of $30,000,000 for two-fiscal-year period ending June 30, 1969, for former provisions for availability of $36,500,000 for period ending June 30, 1967, as provided in former provisions of section 401 of the Act.

§ 206. Water resource survey

(a) The Secretary of the Army is hereby authorized and directed to prepare a comprehensive plan for the development and efficient utilization of the water and related resources of the Appalachian region, giving special attention to the need for an increase in the production of economic goods and services within the region as a means of expanding economic opportunities and thus enhancing the welfare of its people, which plan shall constitute an integral and harmonious component of the regional economic development program authorized by this Act.

(b) This plan may recommend measures for the control of floods, the regulation of the rivers to enhance their value as sources of water supply for industrial and municipal development, the generation of hydroelectric power, the prevention of water pollution by drainage from mines, the development and enhancement of the recreational potentials of the region, the improvement of the rivers for navigation where this would further industrial development at less cost than would the improvement of other modes of transportation, the conservation and efficient utilization of the land resource, and such other measures as may be found necessary to achieve the objectives of this section.

(c) To insure that the plan prepared by the Secretary of the Army shall constitute a harmonious component of the regional program, he shall consult with the Commission and the following: the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of the Interior, Secretary of Transportation, the Tennessee Valley Authority, and the Federal Power Commission.

(d) The plan prepared pursuant to this section shall be submitted to the Commission. The Commission shall submit the plan to the President with a statement of its views, and the President shall submit the plan to the Congress with his recommendations not later than December 31, 1968.

(e) The Federal agencies referred to in subsection (c) of this section are hereby authorized to assist the Secretary of the Army in the preparation of the plan authorized by this section, and the Secretary of the Army is authorized to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to the preparation of this plan and on such terms as he may deem appropriate, with any department, agency, or instrumentality of the United States or with any State, or any political subdivision, agency, or instrumentality thereof, or with any person, firm, association, or corporation.

(f) The plan to be prepared by the Secretary of the Army pursuant to this section shall also be coordinated with all comprehensive river basin plans heretofore or hereafter developed by United States study commissions, interagency committees, or similar planning bodies, for those river systems draining the Appalachian region.

(g) Not to exceed $2,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1969, shall be available to carry out this section.

(As amended Pub. L. 89-670, § 9(c), Oct. 15, 1966, 80 Stat. 943; Pub. L. 90-103, title I, § 111, Oct. 11, 1967, 81 Stat. 261.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

AMENDMENTS

1967—Subsec. (g). Pub. L. 90-103 substituted provisions for availability of $2,000,000 for two-fiscal-year period ending June 30, 1969, for former provisions for availability of $5,000,000 for period ending June 30, 1967, as provided in former provisions of section 401 of the Act.

1966—Subsec. (c). Pub. L. 89-670 added the Secretary of Transportation to the list of officers with whom the Secretary of the Army is required to consult.

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967, as prescribed by the President and published in the Federal Register, see section 16(a), formerly § 15(a), of Pub. L. 89-670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, set out as notes under section 1651 of Title 49, Appendix, Transportation.

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 207. Assistance for proposed low- and middle-income housing projects

(a) In order to encourage and facilitate the construction or rehabilitation of housing to meet the needs of low- and moderate-income families and individuals, the Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") is authorized to make grants and loans from the Appalachian Housing Fund established by this section, under such terms and conditions as he may prescribe, to nonprofit, limited dividend, or cooperative organizations and public bodies, for planning and obtaining federally insured mortgage financing or other financial assistance for housing construction or rehabilitation projects for low- and moderate-income families and individuals, under section 221 of the National Housing Act, section 8 of the United States Housing Act of 1937, section 515 of the Housing Act of 1949, or any other law of similar purpose administered by the Secretary or any other department, agency, or instrumentality of the Federal or State government, in any area of the Appalachian region determined by the Commission.

(b) No loan under subsection (a) of this section shall exceed 80 per centum of the cost of planning and obtaining financing for a project, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site options, application and mortgage commitment fees, legal fees, and construction loan fees and discounts. Such loans shall be made without interest, except that any loan made to an organization established for profit shall bear interest at the prevailing market rate authorized for an insured or guaranteed loan for such project. The Secretary shall require payments of loans made under this section, under such terms and conditions as he may require, upon completion of the project or sooner, and except in the case of a loan to an organization established for profit, may cancel any part or all of such a loan, if he determines that a permanent loan to finance such project cannot be obtained in an amount adequate for repayment of such loan under this section.

(c)(1) Except as provided in paragraph (2) of this subsection, no grant under this section shall exceed 80 per centum of those expenses, incident to planning and obtaining financing for a project, which the Secretary considers not to be recoverable from the proceeds of any permanent loan made to finance such project, and no such grant shall be made to an organization established for profit.

(2) The Secretary is authorized to make grants and commitments for grants, and may advance funds under such terms and conditions as he may require, to nonprofit, limited dividend, or cooperative organizations and public bodies for reasonable site development costs and necessary offsite improvements, such as sewer and water line extensions, whenever such a grant, commitment, or advance is essential to the economic feasibility of any housing construction or rehabilitation project for low- and moderate-income families and individuals which otherwise meets the requirements for assistance under this section, except that no such grant for the construction of housing, shall exceed 10 per centum of the cost of such project, and no such grant for the rehabilitation of housing shall exceed 10 per centum of the reasonable value of such rehabilitation housing, as determined by the Secretary.

(d) All funds allocated to the Secretary for the purposes of this section shall be deposited in a fund which shall be known as the Appalachian Housing Fund and shall be used as a revolving fund by the Secretary for carrying out such purposes. General expenses of administration of this section may be charged to the fund. Moneys in the fund not needed for current operation may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

(e) The Secretary or the Commission may provide, or contract with public or private organizations to provide, information, advice, and technical assistance with respect to the construction, rehabilitation, and operation by nonprofit organizations of housing for low or moderate income families in such areas of the region and may provide funds to the States for making grants and loans to nonprofit, limited dividend, or cooperative organizations and public bodies for the purposes for which the

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Secretary is authorized to provide funds under this section.

(f) Programs and projects assisted under this section shall be subject to the provisions cited in section 402 of this Act, notwithstanding such section, to the extent provided in the laws authorizing assistance for low- and moderate-income housing.

(Added Pub. L. 90-103, title I, § 112, Oct. 11, 1967, 81 Stat. 261, and amended Pub. L. 90-448, title II, § 201(f), Aug. 1, 1968, 82 Stat. 502; Pub. L. 91-123, title I, § 106, Nov. 25, 1969, 83 Stat. 215; Pub. L. 92-65, title II, § 208, Aug. 5, 1971, 85 Stat. 169; Pub. L. 94-188, title I, § 113, Dec. 31, 1975, 89 Stat. 1082.)

REFERENCES IN TEXT

Section 221 of the National Housing Act, referred to in subsec. (a), is classified to section 1715*l* of Title 12, Banks and Banking.

Section 8 of the United States Housing Act of 1937, referred to in subsec. (a), is classified to section 1437f of Title 42, The Public Health and Welfare.

Section 515 of the Housing Act of 1949, referred to in subsec. (a), is classified to 1485 of Title 42.

Section 402 of this Act, referred to in subsec. (f), is section 402 of Pub. L. 89-4, Mar. 9, 1951, 79 Stat. 21, which is set out as section 402 of this Appendix.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-188, § 113(1), substituted reference to section 8 of the United States Housing Act of 1937, section 515 of the Housing Act of 1949, or any other law of similar purpose administered by the Secretary or any other department, agency, or instrumentality of the Federal or State government for reference to section 235, or 236 of the National Housing Act.

Subsec. (c)(2). Pub. L. 94-188, § 113(2), included limited dividend and cooperative organizations in the list of recipients who may receive grants and commitments for grants and advances, and added provisions that no grant for the rehabilitation of housing shall exceed 10 per centum of the reasonable value of such rehabilitation housing as determined by the Secretary.

Subsec. (e). Pub. L. 94-188, § 113(3), added provision that the Secretary or the Commission may provide funds to the States for making grants and loans to nonprofit, limited dividend, or cooperative organizations and public bodies for the purposes for which the Secretary is authorized to provide funds under this section.

Subsec. (f). Pub. L. 94-188, § 113(4), added subsec. (f).

1971—Pub. L. 92-65, § 208(a), substituted "low- and moderate-income housing projects" for "housing projects under section 221 and section 236 of the National Housing Act" in the section catchline.

Subsec. (a). Pub. L. 92-65, § 208(b), substituted provisions authorizing grants and loans for planning and obtaining federally insured mortgage financing for housing construction or rehabilitation projects for low- and moderate-income families and individuals, under section 221, 235, or 236 of the National Housing Act, in any area of the Appalachian region determined by the Commission for provisions authorizing grants and loans for expenses of planning and obtaining insured mortgage for housing construction or rehabilitation projects, under section 221 or 236 of the National Housing Act, in any area of the Appalachian region determined by the Commission to have significant potential for future growth.

Subsec. (b). Pub. L. 92-65, § 208(b), redesignated subsec. (c) as (b), and in subsec. (b) so redesignated, substituted "application and mortgage commitment fees, legal fees" for "Federal Housing Administration, Government National Mortgage Association and Federal National Mortgage Association fees", deleted references to section 221 or 236 in three places, and modified provisions relating to repayment of loans to permit cancellation of all or any part of the loan if the Secretary determines that a permanent loan cannot be obtained in any case except loans to profitmaking organizations. Former subsec. (b) redesignated (c)(1) and amended.

Subsec. (c)(1). Pub. L. 92-65, § 208(b), redesignated former subsec. (b) as subsec. (c)(1), and in subsec. (c)(1) so redesignated, extended the 80 percent limitation to expenses incident to planning and obtaining financing for a housing project and exempted par. (2) from the limitation in par. (1).

Subsec. (c)(2). Pub. L. 92-65, § 208(b), added par. (2).

Subsec. (e). Pub. L. 92-65, § 208(c), extended to the Commission the authority to provide technical assistance for construction, rehabilitation, and operation by nonprofit organizations of low or moderate income housing units.

1969—Subsec. (e). Pub. L. 91-123 substituted provisions that authorized the Secretary to provide technical assistance for construction, rehabilitation, and operation by nonprofit organizations of low or moderate income housing units for provisions that authorized to be appropriated an amount not to exceed $5,000,000 of the funds authorized in section 401 of this Act for the two-fiscal year period ending June 30, 1969 to carry out the purposes of this section.

1968—Pub. L. 90-448, § 201(f)(1), inserted "and section 236" in the catchline.

Subsec. (a). Pub. L. 90-448, § 201(f)(2), (3), substituted "section 221 or section 236 of the National Housing Act" for "section 221 of the National Housing Act", and "as 'section 221' or 'section 236'" for "as section 221".

Subsec. (b). Pub. L. 90-448, § 201(f)(2), inserted reference to section 236.

Subsec. (c). Pub. L. 90-448, § 201(f)(2), (4), inserted reference to section 236 and included Government National Mortgage Association fees.

§ 208. Appalachian airport safety improvements

(a) In order to provide a system of airports in the Appalachian region which can accommodate a greater number of passengers in safety and thereby increase commerce and communication in areas with developmental potential, the Secretary of Transportation (hereafter in this section referred to as the "Secretary") is authorized to make grants to existing airports for the purpose of enhancing the safety of aviation and airport operations.

(b) Such airport safety improvement projects may include (A) approach clearance, the removal, lowering, relocation, and marking and lighting of airport hazards, navigation aids, site preparation for navigation aids, and the acquisition of adequate safety equipment (including firefighting and rescue equipment), and (B) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace which is necessary for such projects or to remove or mitigate or prevent or limit the establishment of, airport hazards.

(c) Grants under this section shall be made solely from funds specifically made available to the President for the purpose of carrying out this Act in accordance with the provisions of this Act, and shall not be taken into account in the computation of the allotments among the

States made pursuant to any other provisions of law.

(d) Except as context otherwise indicates, words and phrases used in this section shall have the same meaning as in the Airport and Airway Development Act of 1970 and the Federal Aviation Act of 1958, as amended.

(e) Federal assistance to any project under this section shall not exceed 90 per centum of the costs of the project, except for assistance for navigation aids which may be 100 per centum.

(f) The Secretary is authorized to incur obligations to make grants for airport safety improvement projects, in a total amount not to exceed $40,000,000 during the period ending June 30, 1975. There are authorized to be appropriated to the President such sums as may be required for liquidation of the obligations incurred under this section.

(Added Pub. L. 92-65, title II, § 205, Aug. 5, 1971, 85 Stat. 168.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

The Airport and Airway Development Act of 1970, referred to in subsec. (d), is title I of Pub. L. 91-258, May 21, 1970, 84 Stat. 219, as amended, which is classified principally to chapter 25 (§ 1701 et seq.) of Title 49, Appendix, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 49, Appendix, and Tables.

The Federal Aviation Act of 1958, referred to in subsec. (d), is Pub. L. 85-726, Aug. 23, 1958, 72 Stat. 731, as amended, which is classified generally to chapter 20 (§ 1301 et seq.) of Title 49, Appendix, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 49, Appendix, and Tables.

RESCISSION OF AUTHORITY TO INCUR OBLIGATIONS TO MAKE GRANTS FOR AIRPORT SAFETY IMPROVEMENT PROJECTS

Pub. L. 93-529, ch. III, Dec. 21, 1974, 88 Stat. 1711, provided in part that: "The authority to incur obligations provided by subsection (f) of section 208 of the Appalachian Regional Development Act of 1965, as amended (85 Stat. 169, 40 App. U.S.C. 208), is rescinded."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this Appendix.

PART B—SUPPLEMENTATIONS AND MODIFICATIONS OF EXISTING PROGRAMS

§ 211. Vocational education facilities and vocational and technical education demonstration projects

(a) In order to provide basic facilities to give the people of the region the training and education they need to obtain employment, the Secretary of Education is authorized to make grants for construction of the school facilities and for the equipment and operation of such facilities and other school facilities needed for the provision of vocational education in areas of the region in which such education is not now adequately available. Such grants shall be made in accordance with the provisions of the Vocational Education Act of 1963 (77 Stat. 403), without regard to any provisions therein relating to appropriation authorization ceilings or to allotments among the States. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this Act, and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provision of law.

(b)(1) In order to assist in the expansion and improvement of educational opportunities and services for the people of the region, the Secretary of Education is authorized to make grants for planning, construction, equipping, and operating educational projects which will serve to demonstrate areawide education planning, services, and programs, with special emphasis on vocational and technical education, career education, cooperative and recurrent education, guidance and counseling. Projects shall be selected with the involvement of all sectors of the community, including industry and labor. Grants under this section shall be made solely out of funds specifically appropriated for the purposes of this Act and shall not be taken into account in any computation of allotments among the States pursuant to any other law.

(2) No grant for the construction or equipment of any component of an education demonstration project shall exceed 80 per centum of its costs.

(3) Grants under this section for operation of components of education demonstration projects, whether or not constructed by funds authorized by this Act, may be made for up to 100 per centum of the costs thereof for the two-year period beginning on the first day that such component is in operation as a part of the project. For the next three years of operation, such grants shall not exceed 75 per centum of such costs. No grants for operation of education demonstration projects shall be made after five years following the commencement of the initial grant for operation of the project. Notwithstanding section 104 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3134), an education-related facility constructed under title I of that Act may be a component of an education demonstration project eligible for operating grant assistance under this section.

(4) No grant for expenses of planning necessary for the development and operation of an education demonstration project shall exceed 75 per centum of such expenses.

(5) No grant for planning, construction, equipment, or operation of an education demonstration project shall be made unless the facility is publicly owned, but this shall not be deemed to preclude training or on-the-job employment activities away from such facility if the project is administered through a public body.

(6) Any Federal contribution referred to in this section may be provided entirely from funds appropriated to carry out this section, or

in combination with funds available under other Federal grant-in-aid programs providing assistance for education-related facilities or services. Notwithstanding any provision of law limiting the Federal share in such programs, funds appropriated to carry out this section may be used to increase such Federal share to the maximum percentage cost thereof authorized by the applicable paragraph of this subsection.

(As amended Pub. L. 90-103, title I, § 113, Oct. 11, 1967, 81 Stat. 262; Pub. L. 92-65, title II, § 209, Aug. 5, 1971, 85 Stat. 170; Pub. L. 94-188, title I, § 114, Dec. 31, 1975, 89 Stat. 1083; Pub. L. 96-88, title III, § 301, title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

The Vocational Education Act of 1963 (77 Stat. 403), referred to in subsec. (a), is title I of Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, which was classified to chapter 32 (§ 1241 et seq.) of Title 20, Education, and was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94-482, title II, § 202(a), Oct. 21, 1976, 90 Stat. 2169, and is classified to chapter 44 (§ 2301 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables. For additional details, see also the Codification note preceding section 1241 of Title 20.

This Act, referred to in subsecs. (a), (b)(1), (3), means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

Section 104 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3134), referred to in subsec. (b)(3), was repealed by Pub. L. 94-188, title I, § 123, Dec. 31, 1975, 89 Stat. 1086.

Title I of that Act, referred to in subsec. (b)(3), means title I of the Public Works and Economic Development Act of 1965, Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552. Title I of the Public Works and Economic Development Act of 1965 is classified generally to subchapter I (§ 3131 et seq.) of chapter 38 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

AMENDMENTS

1975—Subsec. (b)(1). Pub. L. 94-188, § 114(1), substituted provisions authorizing the Secretary to make grants for planning, constructions, equipping, and operating educational projects which will serve to demonstrate areawide education planning, services, and programs, with special emphasis on vocational and technical education, career education, cooperative and recurrent education, guidance and counseling for provisions authorizing the Secretary to make such grants for vocational and technical educational projects which will serve to demonstrate areawide educational planning, services, and programs, and added provision that projects shall be selected with the involvement of all sectors of the community, including industry and labor.

Subsec. (b)(2). Pub. L. 94-188, § 114(2), substituted 'component of an education" for "component of a vocational and technical education".

Subsec. (b)(3). Pub. L. 94-188, § 114(3), substituted reference to education demonstration projects for reference to vocational and technical education demonstration projects in three places.

Subsec. (b)(4). Pub. L. 94-188, § 114(4), substituted "operation of an education" for "operation of a vocational and technical education".

Subsec. (b)(5). Pub. L. 94-188, § 114(5), substituted provisions that no grant for planning, construction, equipment, or operation of an education demonstration project shall be made unless the facility is publicly owned, but that this shall not be deemed to preclude training or on-the-job employment activities away from such facility if the project is administered through a public body for provisions that no grant for planning, construction, operation, or equipment of a vocational and technical education demonstration project shall be made unless the facility is publicly owned.

1971—Pub. L. 92-65, § 209(a), added "and vocational and technical education demonstration projects" in the catchline.

Subsec. (a). Pub. L. 92-65, § 209(b), extended the authority of the Secretary to make grants for the operation of school facilities.

Subsec. (b). Pub. L. 92-65, § 209(c), substituted pars. (1) to (5) for provisions authorizing $26,000,000 for the two-fiscal-year period ending June 30, 1969 out of the total appropriations authorized under section 401 of this Appendix.

1967—Subsec. (a). Pub. L. 90-103, § 113(a), inserted "and for the equipment of such facilities and other school facilities" before "needed," in the first sentence.

Subsec. (b). Pub. L. 90-103, § 113(b), substituted provisions for availability of $26,000,000 for two-fiscal-year period ending June 30, 1969, for former provisions for availability of $16,000,000 for period ending June 30, 1967, as provided in provisions of section 401 of the Act.

TRANSFER OF FUNCTIONS

"Secretary of Education" was substituted for "Secretary of Health, Education, and Welfare" in subsec. (a) and for "Secretary of the Department of Health, Education, and Welfare" in subsec. (b)(1) pursuant to sections 301 and 507 of Pub. L. 96-88, which are classified to sections 3441 and 3507 of Title 20, Education, and which transferred functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary of Education.

§ 212. Sewage treatment works

(a) In order to provide facilities to assist in the prevention of pollution of the region's streams and to protect the health and welfare of its citizens, the Administrator of the Environmental Protection Agency is authorized to make grants for the construction of sewage treatment works in accordance with the provisions of the Federal Water Pollution Control Act (33 U.S.C. 466 et seq.), without regard to any provisions therein relating to appropriation authorization ceilings or to allotments among the States. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this Act, and shall not be taken into account in the computation of the allotments among the States pursuant to any other provision of law.

(b) Not to exceed $6,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1969, shall be available to carry out this section.

(As amended Pub. L. 90-103, title I, § 114, Oct. 11, 1967, 81 Stat. 262; 1966 Reorg. Plan No. 2, § 1(h)(2), eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1609; 1970 Reorg. Plan No. 3, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act (33 U.S.C. 466 et seq.), referred to in subsec. (a), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

This Act, referred to in subsec. (a), means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

Section 401 of this Act, referred to in subsec. (b), is section 401 of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 21, which is set out as section 401 of this Appendix.

AMENDMENTS

1967—Subsec. (b). Pub. L. 90-103 substituted provisions for availability of $6,000,000 for two-fiscal-year period ending June 30, 1969, for former provisions for availability of $6,000,000 for period ending June 30, 1967, as provided in former provisions of section 401 of this Act.

TRANSFER OF FUNCTIONS

All functions of the Secretary of the Interior and the Department of the Interior administered through the Federal Water Quality Administration, all functions which were transferred to the Secretary of the Interior by Reorg. Plan No. 2 of 1966, eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608, and all functions vested in the Secretary of the Interior or the Department of the Interior by the Federal Water Pollution Control Act (see Short Title note set out under section 1251 of Title 33, Navigation and Navigable Waters) were transferred to the Administrator of the Environmental Protection Agency by Reorg. Plan No. 3 of 1970, § 2(a)(1), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2087, set out in the Appendix to Title 5, Government Organizations and Employees.

Functions of the Secretary of Health, Education, and Welfare under this section were transferred to the Secretary of the Interior, see section 1(h)(2) of Reorg. Plan No. 2 of 1966, eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1609, set out in the Appendix to Title 5.

§ 213. Amendments to Housing Act of 1954

(a) Section 701(a) of the Housing Act of 1954 (40 U.S.C. 461(a)) is amended by striking the word "and" at the end of paragraph (7), by substituting for the period at the end of paragraph (8) the phrase "; and", and by adding a new paragraph (9) to read as follows:

"(9) the Appalachian Regional Commission, established by the Appalachian Regional Development Act of 1965, for comprehensive planning for the Appalachian region as defined by section 403 of such Act."

(b) Section 701(b) of the Housing Act of 1954 (40 U.S.C. 461(b)) is amended by adding before the period at the end of the first sentence the following: ", to States participating in planning for Appalachian regional programs, for expenses incurred in the course of such planning, or to the Appalachian Regional Commission".

REFERENCES IN TEXT

Section 701(a) and 701(b) of the Housing Act of 1954, referred to in text, which was classified to section 461(a) and (b) of Title 40, Public Buildings, Property, and Works, was repealed by Pub. L. 97-35, title III, § 313(b), Aug. 13, 1981, 95 Stat. 398.

The Appalachian Regional Development Act of 1965, referred to in subsec. (a), is Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, which is set out in this Appendix. Section 403 of such Act is set out as section 403 of this Appendix. For complete classification of this Act to the Code, see Tables.

§ 214. Supplements to Federal grant-in-aid programs

(a) In order to enable the people, States, and local communities of the region, including local development districts, to take maximum advantage of Federal grant-in-aid programs (as hereinafter defined) for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share, or for which there are insufficient funds available under the Federal grant-in-aid Act authorizing such programs to meet pressing needs of the region, the President is authorized to provide funds to the Federal Cochairman to be used for all or any portion of the basic Federal contribution to projects or activities (hereinafter referred to as projects) under such Federal grant-in-aid programs authorized by Federal grant-in-aid Acts, and for the purpose of increasing the Federal contribution to projects under such programs, as hereafter defined, above the fixed maximum portion of the cost of such projects otherwise authorized by the applicable law. In the case of any program or project for which all or any portion of the basic Federal contribution to the project under a Federal grant-in-aid program is proposed to be made under this subsection, no such Federal contribution shall be made until the responsible Federal official administering the Federal grant-in-aid Act authorizing such contribution certifies that such program or project meets the applicable requirements of such Federal grant-in-aid Act and could be approved for Federal contribution under such Act if funds were available under such Act for such program or project. Funds may be provided for programs and projects in a State under this subsection only if the Commission determines that the level of Federal and State financial assistance under Acts other than this Act, for the same type of programs or projects in that portion of the State within the region, will not be diminished in order to substitute funds authorized by this subsection. Funds provided pursuant to this Act shall be available without regard to any limitations on areas eligible for assistance or authorizations for appropriation in any other Act. Any findings, report, certification, or documentation required to be submitted to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of any Federal grant-in-aid programs shall be accepted by the Federal Cochairman with respect to a supplemental grant for any project under such program.

(b) The Federal portion of such costs shall not be increased in excess of the percentages established by the Commission, and shall in no event exceed 80 per centum thereof.

(c) The term "Federal grant-in-aid programs" as used in this section means those Federal grant-in-aid programs authorized on or before

December 31, 1980, by this Act and Acts other than this Act for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts: Federal Water Pollution Control Act; Watershed Protection and Flood Prevention Act; titles VI and XVI of the Public Health Services Act; Vocational Education Act of 1963; Library Services and Construction Act; Federal Airport Act; Airport and Airway Development Act of 1970; part IV of title III of the Communications Act of 1934; title VI (part A) and VII of the Higher Education Act of 1965; Land and Water Conservation Fund Act of 1965; National Defense Education Act of 1958; Consolidated Farm and Rural Development Act; titles I and IX of the Public Works and Economic Development Act of 1965; the housing repair program for homeowners authorized by section 1319 of title 42 United States Code; grants under the Indian Health Service Act (42 Stat. 208); and title I of the Housing and Community Development Act of 1974. The term shall not include (A) the program for the construction of the development highway system authorized by section 201 of this Act or any other program relating to highway or road construction, or (B) any other program for which loans or other Federal financial assistance, except a grant-in-aid program, is authorized by this or any other Act. For the purpose of this section, any sewage treatment works constructed pursuant to section 8(c) of the Federal Water Pollution Control Act without Federal grant-in-aid assistance under such section shall be regarded as if constructed with such assistance.

(d) Not to exceed $97,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1969, shall be available to carry out this section.

(As amended Pub. L. 90-103, title I, § 116, Oct. 11, 1967, 81 Stat. 263; Pub. L. 91-123, title I, § 107, Nov. 25, 1969, 83 Stat. 215; Pub. L. 91-258, title I, § 52(b)(5), May 21, 1970, 84 Stat. 235; Pub. L. 92-65, title II, § 210, Aug. 5, 1971, 85 Stat. 171; Pub. L. 94-188, title I, § 115, Dec. 31, 1975, 89 Stat. 1083; Pub. L. 96-506, § 3(4), Dec. 8, 1980, 94 Stat. 2746.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (c), means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (c), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Watershed Protection and Flood Prevention Act, referred to in subsec. (c), is act Aug. 4, 1954, ch. 656, 68 Stat. 666, as amended, which is classified principally to chapter 18 (§ 1001 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 16 and Tables.

The Public Health Service Act, referred to in subsec. (c), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Titles VI and XVI of the Public Health Service Act are classified generally to subchapters IV (§ 291 et seq.) and XIV (§ 300o et seq.), respectively, of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Vocational Education Act of 1963, referred to in subsec. (c), is Pub. L. 88-210, title I, Dec. 18, 1963, 77 Stat. 403, which was classified to chapter 32 (§ 1241 et seq.) of Title 20, Education, and was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94-482, title II, § 202(a), Oct. 21, 1976, 90 Stat. 2169, and is classified to chapter 44 (§ 2301 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables. For additional details, see also the Codification note preceding section 1241 of Title 20.

The Library Services and Construction Act, referred to in subsec. (c), is act June 19, 1956, ch. 407, 70 Stat. 293, as amended, which is classified generally to chapter 16 (§ 351 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 351 of Title 20 and Tables.

The Federal Airport Act, referred to in subsec. (c), is act May 13, 1946, ch. 251, 60 Stat. 170, which was classified to chapter 14 (§ 1101 et seq.) of Title 49, Appendix, Transportation. The Act was repealed by section 52(a) of the Airport and Airway Development Act of 1970 (Pub. L. 91-258, title I, May 21, 1970, 84 Stat. 235). See chapter 25 (§ 1701 et seq.) of Title 49, Appendix.

The Airport and Airway Development Act of 1970, referred to in subsec. (c), is title I of Pub. L. 91-258, May 21, 1970, 84 Stat. 219, as amended, which is classified principally to chapter 25 (§ 1701 et seq.) of Title 49, Appendix, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 49, Appendix, and Tables.

The Communications Act of 1934, referred to in subsec. (c), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended. Part IV of title III of the Communications Act of 1934 is classified generally to part IV (§ 390 et seq.) of subchapter III of chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

The Higher Education Act of 1965, referred to in subsec. (c), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1319, as amended. Title VI (part A) and title VII of the Higher Education Act of 1965 are classified generally to Part A (§ 1121 et seq.) of subchapter VI and subchapter VII (§ 1132a et seq.), respectively, of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (c), is Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460l-4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 460l-4 of Title 16 and Tables.

The National Defense Education Act of 1958, referred to in subsec. (c), is Pub. L. 85-864, Sept. 2, 1958, 72 Stat. 1580, as amended, which was classified principally to chapter 17 (§ 401 et seq.) of Title 20, Education, prior to omission from the Code. For complete classification of this Act to the Code, see Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (c), is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§ 1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

The Public Works and Economic Development Act of 1965, referred to in subsec. (c), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended. Titles I and IX of the Public Works and Economic Development Act of 1965 are classified generally to subchapters I (§ 3131 et seq.) and IX (§ 3241 et seq.), respectively, of chapter 38 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

The Indian Health Service Act (42 Stat. 208), referred to in subsec. (c), is act Nov. 2, 1921, ch. 115, 42 Stat. 208, as amended, which enacted section 13 and amended section 52a of Title 25, Indians. For complete classification of this Act to the Code, see Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (c), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, as amended. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§ 5301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42 and Tables.

Section 201 of this Act, referred to in subsec. (c), is section 201 of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 10, which is set out as section 201 of this Appendix.

Section 8(c) of the Federal Water Pollution Control Act, referred to in subsec. (c), is section 8(c) of act June 30, 1948, ch. 758, 62 Stat. 1158, which was set out in section 1158(c) of Title 33, Navigation and Navigable Waters, and was omitted from the Code in the general amendment and revision of the Federal Water Pollution Control Act by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1281 et seq. of Title 33.

Section 401 of this Act, referred to in subsec. (d), is section 401 of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 21, which is set out as section 401 of this Appendix.

AMENDMENTS

1980—Subsec. (c). Pub. L. 96-506 substituted "December 31, 1980" for "December 31, 1978".

1975—Subsec. (a). Pub. L. 94-188, § 115(1), substituted "portion of the basic Federal contribution to projects or activities (hereinafter referred to as projects) under" for "portion of the basic Federal contribution to projects under".

Subsec. (c). Pub. L. 94-188, § 115(2), updated the definition of "Federal grant-in-aid programs" to include additional Federal grant-in-aid programs as eligible for supplementation.

1971—Subsec. (a). Pub. L. 92-65, § 210(a), extended the authority to make basic grants when funds available under a basic Federal grant-in-aid program are insufficient, provided that the Federal official administering the program certifies that the program or project to be funded meets the requirements of the program, on a finding by the Commission that the level of Federal and State assistance to the Appalachian region under other acts will not be diminished by the substitution of funds authorized by this subsection.

Subsec. (c). Pub. L. 92-65, § 210(b), substituted "December 31, 1974" for "December 31, 1970".

1970—Subsec. (c). Pub. L. 91-258 inserted reference to Airport and Airway Development Act of 1970.

1969—Subsec. (c). Pub. L. 91-123 substituted "December 31, 1970" for "December 31, 1967", and provided that for the purposes of this section any sewage treatment works constructed pursuant to section 8(c) of the Federal Water Pollution Control Act be regarded as having been constructed with funds provided under this section.

1967—Subsec. (a). Pub. L. 90-103 substituted authorization of the President to provide funds to the Federal Cochairman for former authorization of the Secretary of Commerce, pursuant to specific recommendations of the Commission approved by him and after consultation with the appropriate Federal officials, to allocate funds appropriated to carry out this section to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of Federal grant-in-aid programs, and provided for the acceptance by the Federal Cochairman, with respect to a supplemental grant for any project under the program, of any finding, report, certification, or documentation required to be submitted to the head of the department, agency, or instrumentality of the Federal Government responsible for administration of any Federal grant-in-aid program.

Subsec. (b). Pub. L. 90-103 substituted "established by the Commission, and shall in no event exceed 80 per centum thereof" for "established by regulations promulgated by the Secretary of Commerce, and such regulations shall in no event authorize the Federal portion of such costs to exceed 80 per centum thereof".

Subsec. (c). Pub. L. 90-103 substituted "on or before December 31, 1967," and "acquisition of land or the construction" for "on or before the effective date of this Act" and "acquisition of land and the construction".

Subsec. (d). Pub. L. 90-103 substituted provisions for availability of $97,000,000 for two-fiscal-year period ending June 30, 1969, for former provisions for availability of $90,000,000 for period ending June 30, 1967, as provided in former provisions of section 401 of the Act.

DELEGATION OF FUNCTIONS

Functions of the President under subsec. (a) of this section delegated to the Federal Cochairman of the Appalachian Regional Commission, see section 6(b) of Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, set out as a note under section 3121 of Title 42, The Public Health and Welfare.

PART C—GENERAL PROVISIONS

§ 221. Maintenance of effort

No State and no political subdivision of such State shall be eligible to receive benefits under this Act unless the aggregate expenditures of State funds, exclusive of expenditures for participation in the National System of Interstate and Defense Highways, and exclusive of local funds and Federal funds, for the benefit of the area within the State located in the region are maintained at a level which does not fall below the average level of such expenditures for its last two full fiscal years preceding the date of enactment of this Act. In computing the average level of expenditure for its last two fiscal years, a State's past expenditure for participation in the National System of Interstate and Defense Highways and expenditures of local funds and Federal funds shall not be included. The Commission shall recommend to the President or such Federal officer or officers as the President may designate, a lesser requirement when it finds that a substantial population decrease in that portion of a State which lies within the region would not justify a State expenditure equal to the average level of the last two years or when it finds that a State's average level of expenditure, within an individual program, has been disproportionate to the pres-

ent need for that portion of the State which lies within the region.

(As amended Pub. L. 90-103, title I, § 117, Oct. 11, 1967, 81 Stat. 263.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, known as the Appalachian Regional Development Act of 1965, as amended, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

The date of enactment of this Act, referred to in text, is Mar. 9, 1965, the date of approval of Pub. L. 89-4.

AMENDMENTS

1967—Pub. L. 90-103 included as exclusions in the first sentence expenditures for participation in the National System of Interstate and Defense Highways and local funds and in the second sentence expenditures of local funds.

§ 222. Consent of States

Nothing contained in this Act shall be interpreted as requiring any State to engage in or accept any program under this Act without its consent.

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

§ 223. Program implementation

No program or project authorized under any section of this title shall be implemented until (1) applications and plans relating to the program or project have been determined by the responsible Federal official to be not incompatible with the provisions and objectives of Federal laws which he administers that are not inconsistent with this Act, and (2) the Commission has approved such program or project and has determined that it meets the applicable criteria under section 224 of this Act and the requirements of the development planning process under section 225, and will contribute to the development of the region, which determination shall be controlling and which shall be accepted by the Federal agencies.

(As amended Pub. L. 90-103, title I, § 118, Oct. 11, 1967, 81 Stat. 264; Pub. L. 94-188, title I, § 116, Dec. 31, 1975, 89 Stat. 1083.)

REFERENCES IN TEXT

This title, referred to in text, means title II of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 10, as amended, which is set out in title II (§ 201 et seq.) of this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

This Act, referred to in text, means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

Sections 224 of this Act and section 225, referred to in text, are section 224 of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 18 and section 225 of Pub. L. 89-4 as added by Pub. L. 94-188, title I, § 118, Dec. 31, 1975, 89 Stat. 1084, which are set out as sections 224 and 225 of this Appendix.

AMENDMENTS

1975—Pub. L. 94-188 substituted in cl. (1), "to be not incompatible with" for "to be compatible with", and in cl. (2), added reference to the requirements of the development planning process under section 225, and added provision that such determination shall be accepted by the Federal agencies.

1967—Pub. L. 90-103 substituted in cl. (1) provisions for determination of compatibility of program or project applications and plans with Federal laws for former provisions for consultations of Commission with State officials securing their recommendations and in cl. (2) provisions for program or project approval by the Commission and controlling determination of meeting or requisite criteria for former provisions for recommendation of plans by the Commission and submission thereof for Executive approval or modification.

DISCRIMINATION BASED ON SEX PROHIBITED IN PROGRAMS UNDER APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

Pub. L. 92-65, title II, § 214, Aug. 5, 1971, 85 Stat. 173, provided: "No person in the United States shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance under the Appalachian Regional Development Act of 1965 [this Appendix]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 202 of this Appendix.

§ 224. Program development criteria

(a) In considering programs and projects to be given assistance under this Act, and in establishing a priority ranking of the requests for assistance presented to the Commission, the Commission shall follow procedures that will insure consideration of the following factors:

(1) the relationship of the project or class of projects to overall regional development including its location in an area determined by the State have a significant potential for growth;

(2) the population and area to be served by the project or class of projects including the relative per capita income and the unemployment rates in the area;

(3) the relative financial resources available to the State or political subdivisions or instrumentalities thereof which seek to undertake the project;

(4) the importance of the project or class of projects in relation to other projects or classes of projects which may be in competition for the same funds;

(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic and social development of the area served by the project.

(b) No financial assistance shall be authorized under this Act to be used (1) to assist establish-

ments relocating from one area to another; (2) to finance the cost of industrial plants, commercial facilities, machinery, working capital, or other industrial facilities or to enable plant subcontractors to undertake work theretofore performed in another area by other subcontractors or contractors; (3) to finance the cost of facilities for the generation, transmission, or distribution of electric energy; or (4) to finance the cost of facilities for the production, transmission, or distribution of gas (natural, manufactured, or mixed).

(c) Funds may be provided for programs and projects in a State under this Act only if the Commission determines that the level of Federal and State financial assistance under Acts other than this Act for the same type of programs or projects in that portion of the State within the region, will not be diminished in order to substitute funds authorized by this Act.

(As amended Pub. L. 90-103, title I, § 119, Oct. 11, 1967, 81 Stat. 264; Pub. L. 94-188, title I, § 117, Dec. 31, 1975, 89 Stat. 1084.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

AMENDMENTS

1975—Subsec. (c). Pub. L. 94-188 added subsec. (c).

1967—Subsec. (a). Pub. L. 90-103, § 119(a), substituted the introductory phrase "In considering" for "In developing recommendations on the" and deleted "within those recommendations" preceding "a priority ranking".

Subsec. (b)(1). Pub. L. 90-103, § 119(b), substituted "to assist establishments relocating" for "in relocating any establishment or establishments".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 223, 302 of this Appendix.

§ 225. Appalachian State development planning process

(a) Pursuant to policies established by the Commission, each State member shall submit on such schedule as the Commission shall prescribe a development plan for the area of the State within the region. The State development plan shall reflect the goals, objectives, and priorities identified in the regional development plan and in any subregional development plan which may be approved for the subregion of which such State is a part. Such State development plan shall (1) describe the State organization and continuous process for Appalachian development planning, including the procedures established by the State for the participation of local development districts in such process, the means by which such process is related to overall statewide planning and budgeting processes, and the method of coordinating planning and projects in the region under this Act, the Public Works and Economic Development Act of 1965, and other Federal, State, and local programs; (2) set forth the goals, objectives, and priorities of the State for the region, as determined by the Governor, and identify the needs on which such goals, objectives, and priorities are based; and (3) describe the development program for achieving such goals, objectives, and priorities, including funding sources, and recommendations for specific projects to receive assistance under this Act.

(b)(1) Local development districts certified by the State under section 301 of this Act provide the linkage between State and substate planning and development. In carrying out the development planning process, including the selection of programs and projects for assistance, States shall consult with local development districts, local units of government, and citizen groups and take into consideration the goals, objectives, priorities, and recommendations of such bodies. The districts shall assist the States in the coordination of areawide programs and projects, and may prepare and adopt areawide plans or action programs.

(2) The Commission shall encourage the preparation and execution of areawide action programs which specify interrelated projects and schedules of actions together with the necessary agency fundings and other commitments to implement such programs. Such programs shall make appropriate use of existing plans affecting the area.

(c) To the maximum extent practicable, Federal departments, agencies, and instrumentalities undertaking or providing financial assistance for programs or projects in the region shall (1) take into account the policies, goals, and objectives established by the Commission and its member States pursuant to this Act; (2) recognize Appalachian State development programs approved by the Commission as satisfying requirements for overall economic development planning under such programs or projects; and (3) accept the boundaries and organization of any local development district certified under this Act which the Governor may designate as the areawide agency required under any such program undertaken or assisted by such Federal departments, agencies, and instrumentalities.

(Added Pub. L. 94-188, title I, § 118, Dec. 31, 1975, 89 Stat. 1084.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (c), means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

The Public Works and Economic Development Act of 1965, referred to in subsec. (a), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified principally to chapter 38 (§ 3121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

Section 301 of this Act, referred to in subsec. (b)(1), is section 301 of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 19, which is set out as section 301 of this Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 223 of this Appendix.

TITLE III—ADMINISTRATION

TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in title 42 section 3232.

§ 301. Local development districts; certification

For the purposes of this Act, a "local development district" shall be an entity certified to the Commission either by the Governor of the State or States in which such entity is located, or by the State officer designated by the appropriate State law to make such certification, as having a charter or authority that includes the economic development of counties or parts of counties or other political subdivisions within the region. No entity shall be certified as a local development district for the purposes of this Act unless it is one of the following:

(1) a nonprofit incorporated body organized or chartered under the law of the State in which it is located;

(2) a nonprofit agency or instrumentality of a State or local government;

(3) a nonprofit agency or instrumentality created through an interstate compact; or

(4) a nonprofit association or combination of such bodies, agencies, and instrumentalities.

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 225 of this Appendix.

§ 302. Administrative expenses and research and demonstration projects

(a) The President is authorized—

(1) to make grants to the Commission for administrative expenses, including the development of areawide plans or action programs and technical assistance activities, of local development districts, but (A) the amount of any such grant shall not exceed 75 per centum of such expenses, (B) no grants for administrative expenses shall be made for a State agency certified as a local development district for a period in excess of three years beginning on the date the initial grant is made for such development district, and (C) the local development district contributions for administrative expenses may be in cash or in kind, fairly evaluated, including but not limited to space, equipment, and services;

(2) to make grants to the Commission for assistance to States for a period not in excess of two years to strengthen the State development planning process for the region and the coordination of State planning under this Act, the Public Works and Economic Development Act of 1965, as amended, and other Federal and State programs; and

(3) to make grants to the Commission for investigation, research, studies, evaluations, and assessments of needs, potentials, or attainments of the people of the region, technical assistance, training programs, demonstrations, and the construction of necessary facilities incident to such activities, which will further the purposes of this Act. Grant funds may be provided entirely from appropriations to carry out this section or in combination with funds available under other Federal or Federal grant-in-aid programs or from any other source. Notwithstanding any provision of law limiting the Federal share in any such other program, funds appropriated to carry out this section may be used to increase such Federal share, as the Commission determines appropriate.

(b)(1) Notwithstanding the provisions of section 224(b)(2), (3), or (4), the Commission may provide assistance under this section for demonstrations of enterprise development, including site acquisition or development where necessary for the feasibility of the project, in connection with the development of the region's energy resources and the development and stimulation of indigenous arts and crafts of the region. No more than $3,000,000 shall be obligated for such energy resource related demonstrations in any fiscal year, and no more than $2,500,000 shall be obligated for such indigenous arts and crafts demonstrations.

(2) In carrying out the purposes of this Act, including section 2(b), and in implementing this section, the Secretary of Energy, the Environmental Protection Agency, and other Federal agencies shall cooperate with the Commission and shall provide such assistance as the Federal Cochairman may request.

(3) The Commission shall conduct a study and report on the status of Appalachian migrants in the destinations to which they have migrated, current migration patterns and implications, and the impact which the Commission program has had, and the potential for such impact, on out-migration and the welfare of Appalachian migrants. The Commission is authorized to conduct pilot projects and demonstrations within the region in connection with such study.

(4) The Commission shall conduct a study of physical hazards which are constraints on land use in the Appalachian region (with emphasis on mudslides, landslides, sink holes, and subsidence) and the risks associated with such hazards. To the extent practicable, such study shall identify high-risk hazard areas throughout the Appalachian region. The Commission shall submit its report on such study, together with recommendations for means to remove or avoid such constraints on land use, to the Congress not later than twenty-four months after the enactment of this paragraph.

(c)(1) The Commission shall, as required by the President, maintain accurate and complete records of transactions and activities financed with Federal funds and report thereon to the

President. The records of the Commission shall be available for audit with respect to such grants by the President and the Comptroller General or their duly authorized representatives.

(2) Recipients of Federal assistance under the provisions of this section shall, as required by the Commission, maintain accurate and complete records of transactions and activities financed with Federal funds and report thereon to the Commission. Such records shall be available for audit by the President, the Comptroller General, and the Commission or their duly authorized representatives.

(d) Not to exceed $11,000,000 of the funds authorized in section 401 of this Act for the two-fiscal-year period ending June 30, 1969, shall be available to carry out this section. Not to exceed $3,000,000 of such authorization shall be available for the purposes of subsection (b).

(e) No part of any appropriated funds may be expended pursuant to authorization given by this Act involving any scientific or technological research or development activity unless such expenditure is conditioned upon provisions effective to insure that all information, copyrights, uses, processes, patents, and other developments resulting from that activity will be made freely available to the general public. Nothing contained in this subsection shall deprive the owner of any background patent relating to any such activity, without his consent, of any right which that owner may have under that patent. Whenever any information, copyright, use, process, patent or development resulting from any such research or development activity conducted in whole or in part with appropriated funds expended under authorization of this Act is withheld or disposed of by any person, organization, or agency in contravention of the provisions of this subsection, the Attorney General shall institute, upon his own motion or upon request made by any person having knowledge of pertinent facts, an action for the enforcement of the provisions of this subsection in the district court of the United States for any judicial district in which any defendant resides, is found, or has a place of business. Such court shall have jurisdiction to hear and determine such action, and to enter therein such orders and decrees as it shall determine to be required to carry into effect fully the provisions of this subsection. Process of the district court for any judicial district in any action instituted under this subsection may be served in any other judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any such action is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.

(As amended Pub. L. 90-103, title I, § 120, Oct. 11, 1967, 81 Stat. 264; Pub. L. 91-123, title I, § 108, Nov. 25, 1969, 83 Stat. 215; Pub. L. 92-65, title II, § 211, Aug. 5, 1971, 85 Stat. 172; Pub. L. 94-188, title I, § 119, Dec. 31, 1975, 89 Stat. 1085; Pub. L. 95-91, title III, § 301(a), title VII, §§ 703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(2), (3), (b)(2), (e), means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

The Public Works and Economic Development Act of 1965, referred to in subsec. (a)(2), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified generally to chapter 38 (§ 3121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

Section 224, referred to in subsec. (b)(1), is section 224 of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 18, which is set out as section 224 of this Appendix.

Section 2(b), referred to in subsec. (b)(2), is section 2 of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, which is set out as section 2 of this Appendix.

The enactment of this paragraph, referred to in subsec. (b)(4), is the date of enactment of Pub. L. 94-188, which was approved Dec. 31, 1975.

Section 401 of this Act, referred to in subsec. (d), is section 401 of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 21, which is set out as section 401 of this Appendix.

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94-188, § 119(1), substituted "including the development of areawide plans or action programs and technical assistance activities" for "including technical services".

Subsec. (a)(2), (3). Pub. L. 94-188, § 119(2), added par. (2) and redesignated former par. (2) as (3).

Subsec. (b). Pub. L. 94-188, § 119(3), substituted provisions permitting the Commission to provide assistance for projects relating to the development of energy resources and the development and stimulation of indigenous arts and crafts of the region, that no more than $3,000,000 shall be obligated for such energy resource related demonstrations in any fiscal year and that no more than $2,500,000 shall be obligated for such indigenous arts and crafts demonstrations, requiring cooperation among federal agencies, requiring the Commission to study, report, and make recommendations to Congress for removal of constraints on land use within twenty-four months after Dec. 31, 1975, for provisions authorizing the Commission to make a survey and study of acid pollution in the region from mining activities and the effects of such pollution, and requiring the President to make a report and recommendations to Congress not later than Mar. 31, 1969.

1971—Subsec. (a)(2). Pub. L. 92-65 extended the authority of the President to make grants for evaluations, assessment of needs, potentials, or attainments of the people of the region, and for construction of facilities, and further provided that grants may be made from appropriations under this Appendix or otherwise, and that funds appropriated to carry out this section may be used to increase the Federal share at the discretion of the Commission.

1969—Subsec. (a)(1)(B). Pub. L. 91-123 prohibited the President from making grants for administrative expenses of a state certified agency.

1967—Subsec. (a). Pub. L. 90-103 substituted authorization of the President to make grants to the Commission in pars. (1) and (2) for former authorization of Secretary of Commerce to make grants in par. (1) either directly or through arrangements with the Commission and to provide funds in par. (2) either directly or through arrangements with appropriate public or private organizations (including the Commission), authorized grants for technical services in par. (1), designated existing provisions of cls. (A) to (C), omitting from cl. (A) the limitation of amount of grants to any one fiscal year, and authorized grants

for technical assistance and training programs in par. (2).

Subsec. (b). Pub. L. 90-103 added subsec. (b). Former subsec. (b) redesignated subsec. (c)(2).

Subsec. (c). Pub. L. 90-103 added par. (1) and redesignated former subsec. (b) as par. (2), substituting therein "as required by the Commission" for "an accordance with regulations to be promulgated by the Secretary of Commerce" and "Commission" for "Secretary of Commerce" in two instances, and provided for audit by the President. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 90-103 redesignated former subsec. (c) as (d), substituted provisions for availability of $11,000,000 for two-fiscal-year period ending June 30, 1969, for former provisions for availability of $5,500,000 for period ending June 30, 1967, as provided in former provisions of section 401 of the Act, and limited funds available for purposes of subsec. (b) to $3,000,000. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 90-103 redesignated former subsec. (d) as (e).

TRANSFER OF FUNCTIONS

"Secretary of Energy" was substituted for "Federal Energy Administration, the Energy Research and Development Administration" in subsec. (b)(2) pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of Title 42, The Public Health and Welfare, and which terminated the Federal Energy Administration and the Energy Research and Development Administration and transferred their functions (with certain exceptions) to the Secretary of Energy.

DELEGATION OF FUNCTIONS

Functions of the President under subsecs. (a) and (c) of this section delegated to the Federal Cochairman of the Appalachian Regional Commission, see section 6(b) of Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, set out as a note under section 3183 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 35 section 210.

§ 303. Approval of development plans, investment programs, and projects

State and Regional Development Plans and implementing investment programs, and any multistate subregional plans which may be developed, shall be annually reviewed and approved by the Commission in accordance with section 101(b) of this Act. An application for a grant or for any other assistance for a specific project under this Act shall be made through the State member of the Commission representing such applicant, and such State member shall evaluate the application for approval. Only applications for grants or other assistance for specific projects shall be approved which are certified by the State member and determined by the Federal Cochairman to implement the Commission-approved State development plan; to be included in the Commission-approved implementing investment program; to have adequate assurance that the project will be properly administered, operated, and maintained; and to otherwise meet the requirements for assistance under this Act. After the approval of the appropriate State development plan and implementing investment program, certification by a State member of an application for a grant or other assistance for a specific project pursuant to this section shall, when joined by an affirmative vote of the Federal Cochairman for such project, be deemed to satisfy the requirements for affirmative votes for decisions under section 101(b) of this Act.

(As amended Pub. L. 90-103, title I, § 121, Oct. 11, 1967, 81 Stat. 265; Pub. L. 94-188, title I, § 120, Dec. 31, 1975, 89 Stat. 1086.)

REFERENCES IN TEXT

Section 101(b) of this Act, referred to in text, is section 101(b) of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 6, which is set out as section 101(b) of this Appendix.

This Act, referred to in text, means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

AMENDMENTS

1975—Pub. L. 94-188 substantially reenacted this section, made the regional development planning process under section 101(b) of this Act applicable to procedure for approval by the Commission of state development plans, regional development plans, and implementing investment programs, and further provided that once a state development plan is approved, the submission and approval of a project by a state, when joined by an affirmative vote of the Federal Cochairman for such project, shall be deemed to satisfy the requirements for affirmative votes for decisions under section 101(b) of this Act.

1967—Pub. L. 90-103 prohibited approval by the Commission unless the Commission is satisfied that the project will be properly administered, operated, and maintained and omitted provision that application for a grant be made only by a State, a political subdivision of a State, or a local development district.

SECTIONS REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 302 of this Appendix.

§ 304. Annual report

Not later than six months after the close of each fiscal year, the Commission shall prepare and submit to the Governor of each State in the region and to the President, for transmittal to the Congress, a report on the activities carried out under this Act during such year.

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

RESPONSIBILITY OF FEDERAL COCHAIRMAN

Federal Cochairman of Appalachian Regional Commission responsible for submitting report required by this section, see section 5(f) of Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, set out as a note under section 3121 of Title 42, The Public Health and Welfare.

TITLE IV—APPROPRIATIONS AND MISCELLANEOUS PROVISIONS

§ 401. Authorization of appropriations; limitation on use of funds

In addition to the appropriations authorized in section 105 for administrative expenses, in section 201 for the Appalachian Development Highway System and Local Access Roads, and in section 208 for Appalachian Airport Safety Improvements, there is hereby authorized to be appropriated to the President, to be available until expended, to carry out this Act, $268,500,000 for the two-fiscal-year period ending June 30, 1971; $282,000,000 for the two-fiscal-year period ending June 30, 1973; and $294,000,000 for the two-fiscal-year period ending June 30, 1975. In addition to the appropriations authorized in section 105 for administrative expenses, and in section 201(g) for the Appalachian development highway system and local access roads, there is authorized to be appropriated to the President, to be available until expended, to carry out this Act, $340,000,000 for the period beginning July 1, 1975, and ending September 30, 1977, and $300,000,000 for the two-fiscal year period ending September 30, 1979, and $300,000,000 for the two-fiscal-year period ending September 30, 1981, and $50,000,000 for the fiscal year ending September 30, 1982. No part of the sums authorized in this section for the fiscal year ending September 30, 1982, shall be obligated for any project unless such project was undertaken with funds obligated in a previous fiscal year or is a capital project which was originally approved for funding in fiscal year 1981 and can be started and completed with funds authorized for fiscal year 1982.

(As amended Pub. L. 90-103, title I, § 122, Oct. 11, 1967, 81 Stat. 266; Pub. L. 91-123, title I, § 109, Nov. 25, 1969, 83 Stat. 215; Pub. L. 92-65, title II, § 212, Aug. 5, 1971, 85 Stat. 172; Pub. L. 94-188, title I, § 121, Dec. 31, 1975, 89 Stat. 1086; Pub. L. 96-506, § 3(5), Dec. 8, 1980, 94 Stat. 2746; Pub. L. 97-35, title XVIII, § 1832(a)(3), (4), Aug. 13, 1981, 95 Stat. 767.)

References in Text

Sections 105, 201, and 208, referred to in text, are sections 105 and 201 of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 8, 10, and section 208 of Pub. L. 89-4 as added by Pub. L. 92-65, title II, § 205, Aug. 5, 1971, 85 Stat. 168, which are set out as sections 105, 201, and 208 of this Appendix.

This Act, referred to in text, means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

Amendments

1981—Pub. L. 97-35 substituted "$50,000,000" for "$140,000,000" and added provisions respecting obligation of sums authorized for the fiscal year ending Sept. 30, 1982.

1980—Pub. L. 96-506 added provisions authorizing appropriations of $300,000,000 for the two-fiscal-year period ending Sept. 30, 1981, and $140,000,000 for the fiscal year ending Sept. 30, 1982.

1975—Pub. L. 94-188 added provisions authorizing additional appropriations for the period beginning July 1, 1975 and ending Sept. 30, 1977, and for the two-fiscal year period ending Sept. 30, 1979.

1971—Pub. L. 92-65 added reference to section 208, authorized appropriation of $282,000,000 for the two-fiscal-year period ending June 30, 1973, and $294,000,000 for the two-fiscal-year period ending June 30, 1975, and struck out provisions limiting to certain amounts the funds allotted to be used in carrying out specified sections.

1969—Pub. L. 91-123 authorized appropriations in an amount not to exceed $268,500,000 for the two-fiscal-year period ending June 30, 1971, and designated specific amounts of the authorization to carry out the purposes of enumerated sections.

1967—Pub. L. 90-103 included reference to appropriation authorization in section 105 and for local access roads, made the appropriation to the President, and substituted provisions for availability of $170,000,000 for two-fiscal-year period ending June 30, 1969, for former provisions for availability of $252,400,000 for period ending June 30, 1967.

Availability of Funds to Federal Cochairman

Funds appropriated pursuant to this section available to Federal Cochairman of Appalachian Regional Commission, see section 6(a) of Ex. Ord. No. 11386, Dec. 28, 1967, 33 F.R. 5, set out as a note under section 3121 of Title 42, The Public Health and Welfare.

Section Referred to in Other Sections

This section is referred to in sections 203, 204, 206, 211, 212, 214 and 302 of this Appendix.

§ 402. Applicable labor standards

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting and decorating, of projects, buildings, and works which are financially assisted through the Federal funds authorized under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

References in Text

This Act, referred to in text, means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional D velopment Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

The Davis-Bacon Act, as amended, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267), referred to in text, is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

Section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)), referred to in text, probably means section 276c of Title 40, Public Buildings, Property, and Works.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 207 of this Appendix.

§ 403. Definition of Appalachian region

As used in this Act, the term "Appalachian region" or "the region" means that area of the eastern United States consisting of the following counties (including any political subdivision located within such area):

In Alabama, the counties of Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, De Kalb, Elmore, Etowah, Fayette, Franklin, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Pickens, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston;

In Georgia, the counties of Banks, Barrow, Bartow, Carroll, Catoosa, Chattooga, Cherokee, Dade, Dawson, Douglas, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Gwinnett, Habersham, Hall, Haralson, Heard, Jackson, Lumpkin, Madison, Murray, Paulding, Pickens, Polk, Rabun, Stephens, Towns, Union, Walker, White, and Whitfield;

In Kentucky, the counties of Adair, Bath, Bell, Boyd, Breathitt, Carter, Casey, Clark, Clay, Clinton, Cumberland, Elliott, Estill, Fleming, Floyd, Garrard, Green, Greenup, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Menifee, Monroe, Montogomery,[1] Morgan, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Rowan, Russell, Wayne, Whitley, and Wolfe;

In Maryland, the counties of Allegany, Garrett, and Washington;

In Mississippi, the counties of Alcorn, Benton, Chickasaw, Choctaw, Clay, Itawamba, Kemper, Lee, Lowndes, Marshall, Monroe, Noxubee, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union, Webster, and Winston;

In New York, the counties of Allegany, Broome, Cattaraugus, Chautauqua, Chemung, Chenango, Cortland, Delaware, Otsego, Schoharie, Schuyler, Steuben, Tioga, and Tompkins;

In North Carolina, the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Davie, Forsyth, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Stokes, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey;

In Ohio, the counties of Adams, Athens, Belmont, Brown, Carroll, Clermont, Coshocton, Gallia, Guernsey, Harrison, Highland, Hocking, Holmes, Jackson, Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Tuscarawas, Vinton, and Washington;

In Pennsylvania, the counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Bradford, Butler, Cambria, Cameron, Carbon, Centre, Clarion, Clearfield, Clinton, Columbia, Crawford, Elk, Erie, Fayette, Forest, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lackawanna, Lawrence, Luzerne, Lycoming, McKean, Mercer, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Washington, Wayne, Westmoreland, and Wyoming;

In South Carolina, the counties of Anderson, Cherokee, Greenville, Oconee, Pickens, and Spartanburg;

In Tennessee, the counties of Anderson, Bledsoe, Blount, Bradley, Campbell, Cannon, Carter, Claiborne, Clay, Cocke, Coffee, Cumberland, De Kalb, Fentress, Franklin, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, McMinn, Macon, Marion, Megs, Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier, Smith, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, and White;

In Virginia, the counties of Alleghany, Bath, Bland, Botetourt, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Highland, Lee, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe;

All the counties of West Virginia.

No recommendation for any change in the definition of the Appalachian region as set forth in this section shall be proposed or considered by the Commission without a prior resolution by the Committee on Public Works of the Senate or of the House of Representatives, directing a study of such change.

The President is authorized and directed to make a study of the extent to which portions of upper New York State which are geographically part of the New England region or the Appalachian region and share the social and economic characteristics thereof should be included in either of such regions. He shall submit the results of such study together with his recommendations to Congress not later than June 30, 1970.

(As amended Pub. L. 90-103, title I, § 123, Oct. 11, 1967, 81 Stat. 266; Pub. L. 91-123, title I, § 110, Nov. 25, 1969, 83 Stat. 215.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

AMENDMENTS

1969—Pub. L. 91-123 authorized and directed the President to make a study of the upper portions of New York State to determine which are geographical-

[1] So in original.

ly part of the New England region or the Appalachian region, and share similar socio-economic characteristics of either of such regions, and provided that the results of this study be submitted to Congress no later than June 30, 1970.

1967—Pub. L. 90-103 included the counties of Lamar and Pickens in Alabama, the counties of Mississippi and New York, and the county of Cannon in Tennessee, prohibited future changes in the regional definition without prior request of Congress, and omitted as executed provision for consultation between Commission and Governor of New York leading to participation and inclusion of counties of New York in the region.

CHANGE OF NAME

The Committee on Public Works of the Senate was abolished and replaced by the Committee on Environment and Public Works of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

The Committee on Public Works of the House of Representatives was changed to the Committee on Public Works and Transportation of the House of Representatives, effective Jan. 3, 1975, by House Resolution 988, 93d Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 23 section 143; title 33 section 1257.

§ 404. Severability

If any provision of this Act, or the applicability thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

§ 405. Termination

This Act, other than section 201, shall cease to be in effect on October 1, 1982.

(As amended Pub. L. 91-123, title I, § 111, Nov. 25, 1969, 83 Stat. 216; Pub. L. 92-65, title II, § 213, Aug. 5, 1971, 85 Stat. 173; Pub. L. 94-188, title I, § 122(a), Dec. 31, 1975, 89 Stat. 1086; Pub. L. 96-506, § 3(6), Dec. 8, 1980, 94 Stat. 2746.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, known as the Appalachian Regional Development Act of 1965, which is set out in this Appendix. For complete classification of this Act to the Code, see section 1 of this Appendix and Tables.

Section 201 of this Act, referred to in text, is section 201 of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 10, which is set out as section 201 of this Appendix.

AMENDMENTS

1980—Pub. L. 96-506 substituted "1982" for "1979".

1975—Pub. L. 94-188 substituted "October 1, 1979" for "July 1, 1975".

1971—Pub. L. 92-65 substituted "July 1, 1975" for "July 1, 1971".

1969—Pub. L. 91-123 provided that section 201 be exempt from the July 1, 1971 termination date of this Act.